

**From:** Public Policy Law360  
**Sent:** Thursday, June 28, 2018 4:29 AM  
**To:** Rep48  
**Subject:** Life After Kennedy: 1 Big Question, 6 Judges To Watch



Thursday, June 28, 2018



## KENNEDY RETIRES

Feature

### **When Partisan Passion Raged, Kennedy Was The Vote To Get**

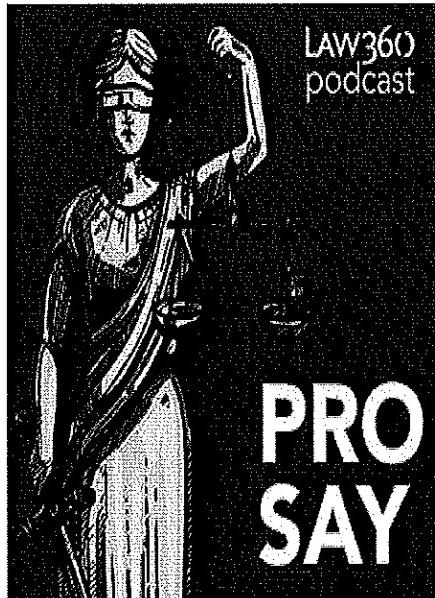
Throughout his three-decade run on the U.S. Supreme Court, Associate Justice Anthony Kennedy leveraged his precious swing vote to forge robust legacies in free speech, LGBT rights and capital punishment, clerks and court watchers told Law360 after the justice announced his retirement Wednesday. [Read more »](#)

### **Justice Kennedy's Retirement To Upset High Court Balance**

Associate Justice Anthony Kennedy, 81, the U.S. Supreme Court's most senior member, is stepping down from the bench, the court announced Wednesday. His retirement will hand President Donald Trump the chance to replace a crucial swing vote and shift the ideological balance of the court to the right. [Read more »](#)

### **GOP Kicks Off Race To Confirm Kennedy Replacement**

Supreme Court Justice Anthony Kennedy's retirement announcement Wednesday echoed like a starting gun in the Senate, setting off a sprint from Senate Republicans who said they



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#### LAW FIRMS

Anthony Kennedy PC

BakerHostetler

Barket Epstein

Bradley Arant

Bredhoff & Kaiser

Carlton Fields

Clifford Chance

Cozen O'Connor

plan on having his replacement confirmed before the fall elections. Read more »

#### Analysis

### **Life After Kennedy: 1 Big Question, 6 Judges To Watch**

President Donald Trump made it clear Wednesday that the world already knows the name of the person he is going to nominate to replace retiring Associate Justice Anthony M. Kennedy. The question is, which name will it be? Read more »

#### Analysis

### **From Iqbal To Citizens United: Kennedy's Biggest Decisions**

In his three decades on the high court, Justice Anthony Kennedy authored opinions that changed the rules for federal civil litigation, opened the floodgates for corporations and unions to fund campaign advertisements, and reshaped the legal landscape for women and same-sex couples. Read more »

### **'Goodbye, Tony!' Justices Bid Farewell To Kennedy**

As U.S. Supreme Court Justice Anthony Kennedy prepares to step down after three decades on the bench, his colleagues stepped forward to share stories about the man they know as "Tony," describing a thoughtful coworker who built enduring friendships and made a lasting mark on the legal landscape. Read more »

## TOP NEWS

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### **Justices Rule Against Unions In Public Worker Fees Fight**

The U.S. Supreme Court on Wednesday held that public-sector workers who aren't union members can't be forced to pay "agency fees" that cover the cost of collective bargaining, overturning 41-year-old precedent that found those fees constitutional and dealing a financial blow to organized labor. Read more »

Cravath Swaine  
Crowell & Moring  
Foley & Lardner  
Fried Frank  
Haynes and Boone  
Hinshaw & Culbertson  
Hochman Salkin  
Jenner & Block  
Jones Day  
Kellogg Hansen  
Kilpatrick Townsend  
Kirkland & Ellis  
Latham & Watkins  
Milbank Tweed  
Morris Manning  
Morrison & Foerster  
O'Melveny & Myers  
Patterson Belknap  
Paul Weiss  
Pierce Atwood  
Quinn Emanuel  
Riley Safer  
Skadden  
Strasburger & Price  
Susman Godfrey  
Thompson & Knight  
White & Case  
Williams & Connolly  
WilmerHale  
Winston & Strawn

## COMPANIES

AT&T Inc.  
Airbnb Inc.  
Alliance Defending Freedom  
Amazon.com Inc.  
American Arbitration Association  
American Bar Association  
American Civil Liberties Union

## **Supreme Court Backs Fla. In Water Fight With Ga.**

The U.S. Supreme Court on Wednesday rejected a special master's report that denied Florida's request to cap Georgia's water usage from a Southeastern river basin, ruling that Florida had sufficiently shown that a remedy is possible and sending the case back to the special master [Read more »](#)

## **EPA Moves Toward Limiting CWA Permit Veto Powers**

The U.S. Environmental Protection Agency announced on Wednesday that Administrator Scott Pruitt wants to do away with the agency's power to veto at any time permits allowing waste from mining and infrastructure projects to be dumped into waters of the United States, including wetlands. [Read more »](#)

## **Full 7th Circ. Pauses Nationwide Ruling In Sanctuary Row**

The full Seventh Circuit on Tuesday paused the nationwide impact of a lower court's order temporarily barring the Trump administration from withholding public safety funds from so-called sanctuary cities, limiting the order to the city of Chicago. [Read more »](#)

## **Judges' Back Pay Win Affirmed By Calif. Appeals Court**

A California judge was acting within his authority when he ordered the Golden State's government to make \$36 million worth of back wage and pension payments to a class of current and former judges, a state appeals court ruled Tuesday. [Read more »](#)

## **BANKING & SECURITIES**

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### **SEC Seeks Comment On Cboe Rule Change For Bitcoin ETF**

The U.S. Securities and Exchange Commission is seeking public comment on a proposed rule change by Cboe BZX Exchange Inc. to list an exchange-traded fund physically

American Federation of State, County and Municipal Employees

American Immigration Council

Arkema SA

CBS Corporation

Cato Institute

Comcast Corporation

Consumer Reports

Entercom Communications Corp.

Entercom Communications Corporation

Expedia Inc.

Facebook

Federalist Society

Financial Industry Regulatory Authority Inc.

First Quantum Minerals

Google Inc.

Instagram Inc.

Intel Corp.

Kids in Need of Defense

Lambda Legal Defense & Educational Fund

LinkedIn Corp.

Lockheed Martin Corp.

Lyft Inc.

McDonald's Corporation

Microsoft Corporation

National Right to Work Legal Defense Foundation

Natural Resources Defense Council

Netflix Inc.

Northern Dynasty Minerals Ltd.

Planned Parenthood Federation

Public Company Accounting Oversight Board

Public Knowledge

Sompo International Holdings Ltd.

Southern Poverty Law Center

backed by bitcoin that would cost about \$200,000 per share, according to a notice Tuesday. [Read more »](#)

## ENERGY & ENVIRONMENTAL

### **NRDC, States Fight EPA Rollback Of Hydrofluorocarbons Rule**

The Natural Resources Defense Council and a coalition of attorneys general and state agencies launched D.C. Circuit challenges on Tuesday to the U.S. Environmental Protection Agency's rollback of Obama-era limits on hydrofluorocarbons, which are used in products like spray cans, air conditioners and refrigerators. [Read more »](#)

## HEALTH & LIFE SCIENCES

### **GAO Says It Lacks Info To Finish Probe Into Zinke's Calls**

The U.S. Government Accountability Office on Wednesday said it cannot determine whether allegedly threatening phone calls U.S. Department of the Interior Secretary Ryan Zinke made to Alaska senators over a health care bill flouted an anti-lobbying rule because the department has refused to give it information about the substance of the calls. [Read more »](#)

## CYBERSECURITY & PRIVACY

### **Cybersecurity On The Hill: ZTE, Bots And The OPM Breach**

Cybersecurity issues were the focus of legislators from both sides of the aisle this week: President Trump was urged to reinstate the sanctions against ZTE Corp., a bill regulating social media bots was introduced in the Senate, and a congressman sought more information on the U.S. Office of Personnel Management breach. [Read more »](#)

### **Calif. Internet Privacy Bill Heads To Vote As Cos. Back Off**

T-Mobile USA Inc.  
TechFreedom  
Texas RioGrande Legal Aid Inc.  
Twitter Inc.  
U.S. Chamber of Commerce  
Verizon Communications Inc.  
Washington Post Co.  
ZTE Corp.  
Zillow Inc.  
eBay Inc.

**GOVERNMENT AGENCIES**  
Army Corps of Engineers  
California Attorney General's Office  
Congressional Research Service  
Department of Commerce  
Equal Employment Opportunity Commission  
European Union  
Executive Office of the President  
Federal Communications Commission  
Federal Deposit Insurance Corp.  
Federal Election Commission  
Federal Reserve System  
Federal Trade Commission  
Florida Department of Environmental Protection  
Government Accountability Office  
Internal Revenue Service  
International Trade Commission  
NATO  
National Railroad Passenger Corporation  
New York Attorney General's Office  
Occupational Safety and Health Administration  
Office of the Comptroller of the Currency

California lawmakers are barreling toward a Thursday vote on proposed internet privacy legislation that would head off a sweeping ballot initiative to give consumers more insight into and control over how companies are collecting and sharing their personal data, a move that a major internet industry group has decided not to block. [Read more »](#)

## MEDICAL MALPRACTICE

### **Rutgers Doc Escapes Med Mal Suit Over Absent Claim Notice**

The New Jersey Appellate Division ruled Wednesday that a woman cannot revive her medical malpractice action against a doctor working for Rutgers University, because she did not file a tort claim notice after the physician “unequivocally disclosed” that he was a state employee entitled to such notification. [Read more »](#)

## AEROSPACE & DEFENSE

### **US State Dept. Official Threatens Turkey With F-35 Cutoff**

A U.S. Department of State official warned that if Turkey goes ahead with the planned purchase of a missile defense system from Russia, Turkey will risk losing access to U.S.-made military technology, including the F-35 fighter jet. [Read more »](#)

## INTERNATIONAL TRADE

### **Steel Users Aim To Wipe Out Security-Based Tariffs**

A coalition of steel users filed a sweeping legal challenge to the Trump administration's 25 percent steel tariff at the U.S. Court of International Trade on Wednesday, arguing that the Cold War-era national security law used to implement the levy is unconstitutional. [Read more »](#)

Pennsylvania Department of Environmental Protection  
Securities and Exchange Commission  
U.S. Army  
U.S. Customs and Border Protection  
U.S. Department of Health and Human Services  
U.S. Department of Justice  
U.S. Department of State  
U.S. Department of the Interior  
U.S. Environmental Protection Agency  
U.S. House of Representatives  
U.S. Immigration and Customs Enforcement  
U.S. Office of Personnel Management  
U.S. Supreme Court  
U.S. Tax Court

## **GOP Sens. Stymied In Attempt At Trump Tariff Rollbacks**

A pair of Republican senators launched an ultimately failed attempt Wednesday to have the Senate vote on a measure that would place restrictions on President Donald Trump's ability to impose national security tariffs, arguing that he has gone too far in placing duties on American allies. [Read more »](#)

## TAX

### **Sen. Plans To Ask IRS Nominee About Pass-Through Break**

During the Senate Finance Committee's confirmation hearing Thursday for the potential future commissioner of the Internal Revenue Service, at least one senator will focus his questions on the new federal tax law's pass-through provision. [Read more »](#)

## IMMIGRATION

### **Advocates File FOIA Suit Over Family Separation Information**

Immigrant advocates filed a suit against the Trump administration Wednesday in Washington, D.C., federal court seeking to compel the government to respond to its Freedom of Information Act requests for information regarding family separation policies, guidance and data. [Read more »](#)

### **Trump Tweet Not Enough To Save GOP Immigration Bill**

An all-caps supportive tweet by President Donald Trump on Wednesday was not enough to save immigration legislation pushed by Republicans that would have provided a path to citizenship for Deferred Action for Childhood Arrivals program participants, amended immigration regulations and funded the border wall sought by the president. [Read more »](#)

## NATIVE AMERICAN

## **Gov't Vow To Separated Parents Enough For Now, Judge Says**

A Trump administration promise to put three undocumented immigrants separated from their children at the border in touch with case managers was enough Wednesday for a D.C. federal judge not to immediately order the government to provide the parents details on the children's welfare and an expected date of reunification. [Read more »](#)

## **TELECOMMUNICATIONS**

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### **Senate Committee Passes Geoffrey Starks' FCC Nomination**

The Senate Committee on Commerce, Science and Transportation on Wednesday sent the nomination of current Federal Communications Commission official Geoffrey Starks to serve as an FCC commissioner to the Senate floor for consideration. [Read more »](#)

### **FCC Tosses News Distortion Claim In CBS Merger Dispute**

The Federal Communications Commission rejected a challenge to Entercom Communications Corp.'s \$1.6 billion merger with CBS Radio Inc. on Tuesday from a pair of petitioners who alleged CBS' television stations engaged in "intentional news distortion" that called into question the company's "basic character qualifications" to hold an FCC license. [Read more »](#)

### **Sprint-T-Mobile Merger Will Multiply 5G Supply, Senate Told**

Sprint and T-Mobile's top brass defended the benefits of their proposed merger before a Senate subcommittee on Wednesday, arguing that the companies' combination would not present anti-competitive challenges because together they will create more fifth-generation technology market share for everyone. [Read more »](#)

## **Alaska Gov. Won't Take Executive Action On Net Neutrality**

Alaska's governor told state lawmakers last week that he won't take executive action to implement net neutrality rules after the Federal Communications Commission's repeal took effect earlier this month, saying instead he'd work with private companies like Microsoft to overcome the rural state's internet infrastructure challenges. [Read more »](#)

## **FEC Considers New Rules For Online Political Ad Disclosure**

The Federal Elections Commission on Wednesday began two days of hearings on proposed changes to rules governing political ads on the internet, as the commission looks to improve transparency and clear up questions about disclosure requirements for the ads. [Read more »](#)

## **EXPERT ANALYSIS**

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### **Series**

## **From Lawmaker To Lawyer: How Congress Affected My Career**

Being a former member of Congress put me in an advantageous position when I approached law firms in the late '70s, at a time when there were few female lawyers, and even fewer African-American lawyers, in major law firms, says former Rep. Yvonne B. Burke, D-Calif., a director of Amtrak. [Read more »](#)

## **How Cakeshop Gives Religious Objectors Legal Ammunition**

The U.S. Supreme Court's recent decision in *Masterpiece Cakeshop v. Colorado Civil Rights Commission* has been framed as much ado about nothing. But how the Supreme Court reached its result hands religious objectors a huge win in the form of potent ammunition for future legal fights, says Jesse Ryan Loffler of Cozen O'Connor. [Read more »](#)

## **SEC Administrative Proceedings After Lucia**

Because of the U.S. Supreme Court's decision in Lucia, the U.S. Securities and Exchange Commission will have to redo a series of administrative cases, potentially straining resources and possibly prompting the agency to tap new administrative law judges, says Daniel Walfish of Walfish & Fissell LLP. [Read more »](#)

## **Civil Forfeiture Abuse Is A Challenge To Civil Rights**

Last month, Rustom Kazazi filed a lawsuit in federal court against U.S. Customs and Border Protection for seizing \$58,000 from him at an airport without charging him with a single criminal offense. The seize-first, investigate-later civil forfeiture regime now prevailing in the United States recalls the British crown's abusive tactics that helped spark the Revolutionary War, says Alexander Klein of Barket Epstein & Kearon LLP. [Read more »](#)

## **Are OCC's Reserve-Based Lending Guidelines Enforceable?**

Following the Government Accountability Office's determination that the Interagency Guidance on Leveraged Lending did not comply with the Congressional Review Act, it would appear that the binding nature of the Office of the Comptroller of the Currency's handbook for oil and gas reserve-based loans should be similarly questioned, says Buddy Clark of Haynes and Boone LLP. [Read more »](#)

## **Limiting Law Firms' Professional Liability Risks: Part 1**

Corporate law departments are increasingly demanding more concessions from outside legal counsel, and presenting engagement letters that open the door to greater professional and cyber liability exposure for law firms — often beyond the scope of their insurance coverage. Firms must add their own language to engagement letters to limit liability,

say Stuart Pattison and John Muller of Sompo International Holdings Ltd [Read more »](#)

## LEGAL INDUSTRY

### **MoFo Hops On Associate Raise Train**

Morrison & Foerster LLP joined the growing roster of law firms that have raised associate salaries and sweetened their paychecks with summer bonuses, according to an internal memo made public on Tuesday. [Read more »](#)

### **This BigLaw Firm Retakes Title Of Best To Work For**

One firm was named the best law firm to work for after dominating Vault.com's quality of life rankings, the website said Wednesday, retaking the top spot after stepping down the podium to No. 3 last year. [Read more »](#)

#### **JOBS**

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Company Confidential  
New York, New York

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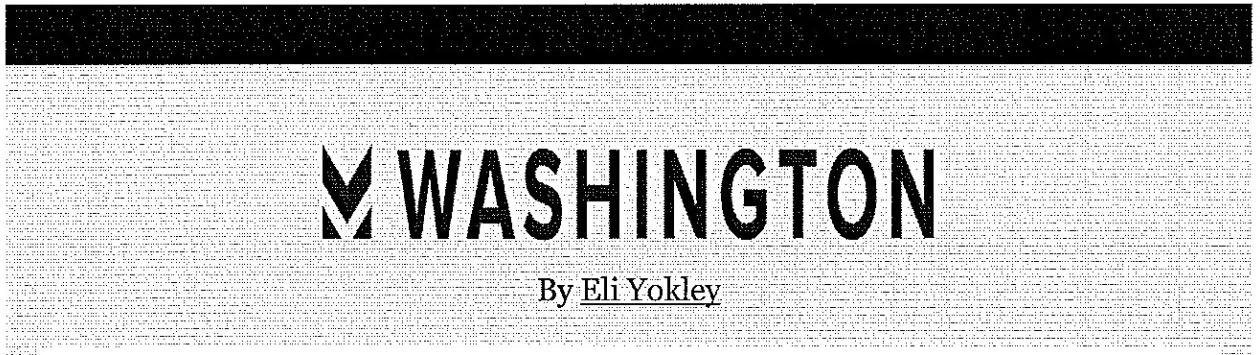
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**From:** Morning Consult  
**Sent:** Thursday, June 28, 2018 8:17 AM  
**To:** Rep48  
**Subject:** Morning Consult Washington: Vulnerable Senate Democrats Under Pressure on Kennedy Seat



## Top Stories

- Republicans are ramping up the pressure on red-state Democrats up for re-election this year, daring them to oppose President Donald Trump's eventual nominee to replace Supreme Court Justice Anthony Kennedy when he retires in July. Senate Majority Leader Mitch McConnell (R-Ky.) said yesterday that the Senate will confirm Kennedy's successor this fall. ([The New York Times](#))
- Christopher Wray, the Federal Bureau of Investigation director, and Deputy Attorney General Rod Rosenstein are set to testify before the House Judiciary Committee today about by the Department of Justice's inspector general report that allies of President Donald Trump claim proves bias in the bureau's Russia investigation. Their visit comes after Peter Strzok, a senior FBI agent who wrote text messages criticizing Trump during the 2016 campaign, was questioned in a closed-door session Wednesday. ([Los Angeles Times](#))
- Trump campaigned last night in Fargo, N.D., where he urged voters to fire Sen. Heidi Heitkamp (D), who he's praised in the

past, in November. In his remarks, Trump criticized House Democratic Caucus Chairman Joe Crowley, who lost his primary in New York Tuesday night and said he was happy House Minority Leader Nancy Pelosi and California Rep. Maxine Waters would remain the faces of the Democratic Party heading into the midterms. (The Associated Press)

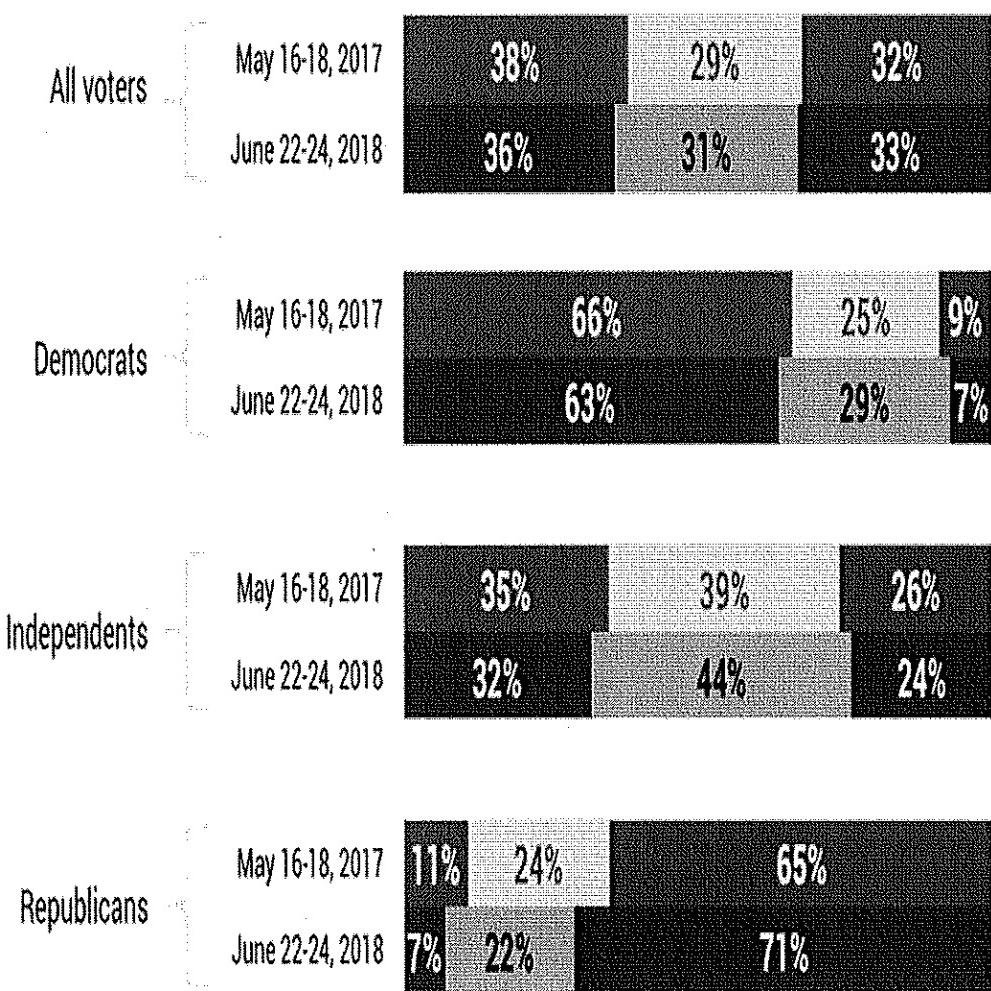
## Chart Review

**Republicans More Likely Than Before to Trust Trump Over Political Media**  
**Morning Consult**

# Trump or the Media? Voters' Trust Still Depends on Their Party

Who do you trust more to tell the truth?

■ The national media   ■ Don't know/No opinion   ■ President Trump's White House



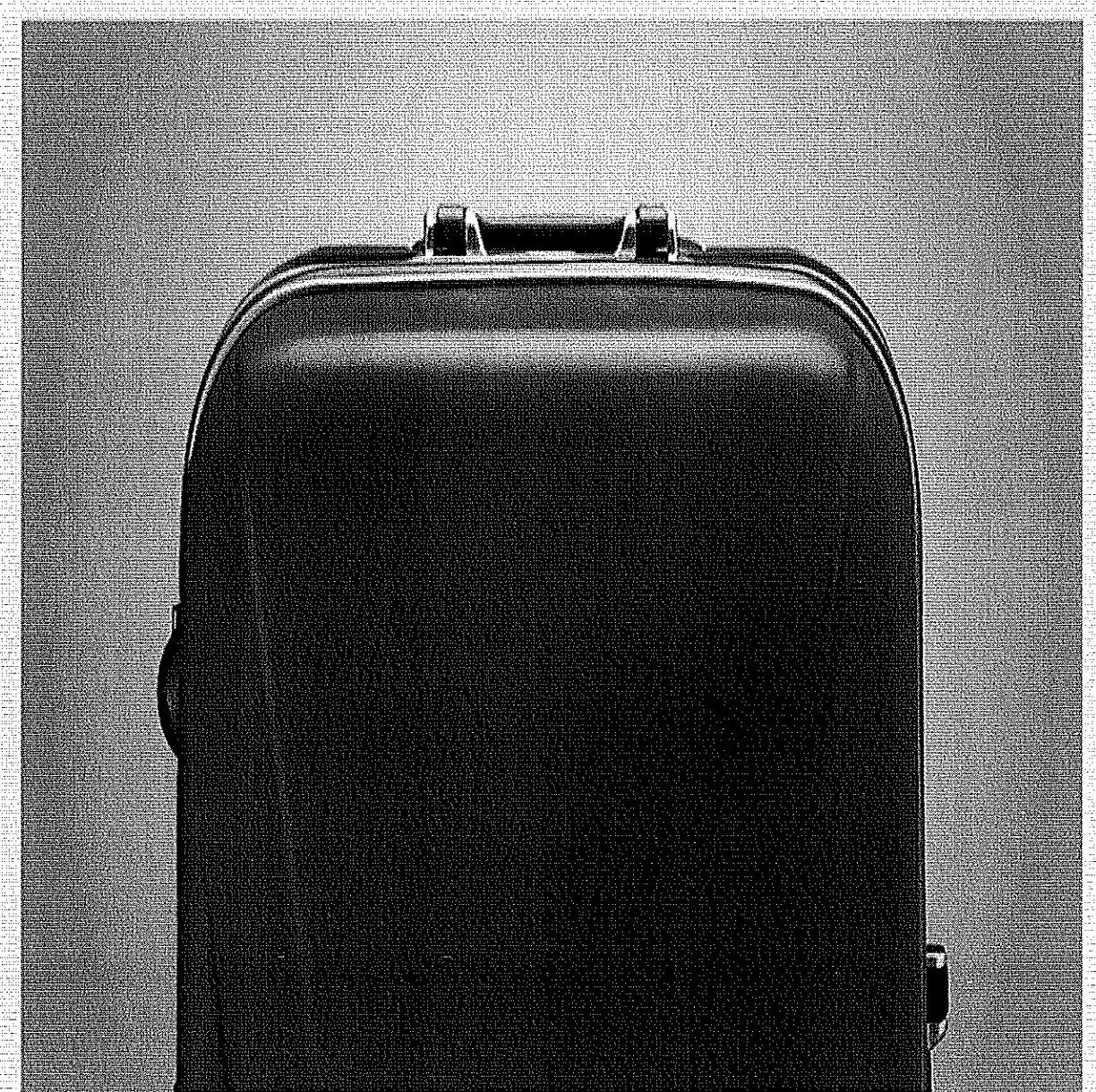
## **Events Calendar (All Times Local)**

### **THURSDAY**

<u>George Mason University the Federalist Society host National Security Symposium</u>	9:30 a.m.
<u>DAG Rosenstein, FBI Director Wray testify at House Judiciary Committee</u>	9:30 a.m.
<u>Senate Judiciary Committee hearing on judicial nominations</u>	10 a.m.

### **FRIDAY**

No events scheduled



## **Report: The State of American Travel 2018**

Consumer insights on vacationing, transportation, and accommodation. This report features brand tracking data on airlines, hotels, and more.

## **General**

**Manafort had \$10 million loan from Russian oligarch: court filing**

**Nathan Layne, Reuters**

A search warrant application unsealed on Wednesday revealed closer links than previously known between President Donald Trump's former campaign manager Paul Manafort and a Russian oligarch with close ties to the Kremlin. In an affidavit attached to the July 2017 application, an FBI agent said he had reviewed tax returns for a company controlled by Manafort and his wife that showed a \$10 million loan from a Russian lender identified as Oleg Deripaska.

**Watchdog closes Zinke threat probe, citing lack of cooperation from Interior**

**Anthony Adragna, Politico**

The GAO said today it couldn't issue an opinion on whether Interior Secretary Ryan Zinke violated the law by reportedly threatening an Alaskan senator in a phone call because the agency didn't cooperate in its probe. Interior acknowledged Zinke phoned Senate Energy Chairwoman Lisa Murkowski (R-Alaska) and Sen. Dan Sullivan (R-Alaska) one day after Murkowski voted against the GOP's legislation to repeal the Affordable Care Act.

**Obama expected to hit the campaign trail for Democrats with help from Pelosi and Schumer**

**Brian Schwartz, CNBC**

Former President Barack Obama has been laying low when it comes to taking on President Donald Trump and the Republican Party. That's not going to last much longer.

**As U.S. hardens its borders, Canada debates whether to do the same or stand up to Trump**

**Vera Haller, Los Angeles Times**

Gbolahan Banjo says his bisexuality led to ostracism and beatings in his native Nigeria, where same-sex relationships are forbidden. So in early June, he made his way to a deserted road in upstate New York and walked across the border and into Canada.

**Xi Warns Mattis China Won't Surrender 'One Inch' of Territory**

**Bloomberg**

President Xi Jinping told U.S. Defense Secretary James Mattis he wouldn't give up any territory that China considered its own, an unusually blunt warning as security disputes simmer below a fight over trade. Xi made his remarks while meeting Mattis on Wednesday in Beijing, the first such visit by a U.S. defense chief in more than four years.

**Congress snubs White House, won't fund new prison for geriatric inmates at Guantánamo**

**Carol Rosenberg, McClatchy DC**

In a setback to President Donald Trump's promise to make Guantánamo a permanent detention center, Congress has refused to pay for construction of a new \$69 million prison for the alleged 9/11 plotters and other former CIA captives. Commanders at the prison twice in recent weeks campaigned for the new building in sessions with visiting U.S. journalists.

**A Spymaster Steps Out of the Shadows**

**Mattathias Schwartz, The New York Times**

On June 4, John Brennan, the former C.I.A. director, made the long drive from suburban Virginia to New Jersey. He had plans to dine with his brother and an old high school friend.

## **Presidential**

### **Trump dubs Heitkamp a 'liberal Democrat,' urges her defeat**

**Darlene Superville, The Associated Press**

President Donald Trump urged voters Wednesday to fire "liberal Democrat" Sen. Heidi Heitkamp in November, claiming that she promised to be an independent mind but instead has voted in lockstep with her party leadership and against his agenda. Trump called instead for the election of Republican U.S. Rep. Kevin Cramer, one of his staunchest allies in Congress.

### **Federal officials launch two reviews into Trump's handling of migrant children**

**Dan Diamond, Politico**

The GAO and the Health and Human Services inspector general both launched reviews Wednesday into the Trump administration's handling of thousands of migrant children separated from their families at the border. The GAO told Rep. Frank Pallone (N.J.) that it will audit the systems and processes used to track families as they were separated, including how the HHS Office of Refugee Resettlement monitored each minor in its care, according to a letter obtained by POLITICO.

### **Donald Trump, Vladimir Putin Expect to Hold July Summit**

**Peter Nicholas et al., The Wall Street Journal**

President Donald Trump said Wednesday he will "most likely" meet with his Russian counterpart, Vladimir Putin, in a summit next month in Europe. The president is scheduled to attend a North Atlantic Treaty Organization summit next month in Brussels and is also planning to visit the U.K.

### **As Summit Nears, NATO Allies Have One Main Worry: Trump**

**Steven Erlanger, The New York Times**

NATO has been preparing for its July summit meeting for a year now, but there is one wild card: President Trump. Nobody knows which president will show up - the truculent one railing about inadequate military spending by the allies or the boastful one taking credit for recent spending increases.

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## Senate

### **Kennedy Retirement Injects an Inflammatory New Issue Into Midterms**

**Jonathan Martin et al., The New York Times**

Supreme Court Justice Anthony M. Kennedy's announcement on Wednesday that he would retire this summer immediately thrust the high court to the center of the battle for control of the Senate, with Republicans daring red-state Democrats to oppose the nominee to replace Justice Kennedy, and Democrats warning that a rush to seat a new justice before the election would further galvanize moderate and liberal voters. With the Republican majority already on a 51-49 knife's edge, senators and strategists from both parties said the clash over the balance of the Supreme Court would immediately overwhelm a campaign that to date had largely revolved around President Trump's conduct and issues surrounding the economy, immigration and health care.

### **Senators Quickly Pivot to SCOTUS Confirmation Mode**

**Jason Dick and John T. Bennett, Roll Call**

Senate Republican leaders on Wednesday quickly laid out the game plan for confirming a replacement for retiring Supreme Court Justice Anthony Kennedy, wasting no time in stating they intended to confirm a new justice before the fall elections and flatly claiming there was literally nothing Democrats could do to delay that. "The Senate stands ready to fulfill its constitutional role by offering advice and consent on President Trump's nominee to fill this vacancy. We will vote to confirm Justice Kennedy's successor this fall," Senate Majority Leader Mitch McConnell

said on the floor just minutes after the news of Kennedy's retirement broke.

**Senate farm bill stalled by Rubio's Cuba crusade**  
**Liz Crampton and Catherine Boudreau, Politico**

Senate leadership's goal of holding a floor vote on the farm bill this week is now in doubt, as key farm-state lawmakers work to resolve a new demand from Sen. Marco Rubio over a provision that would promote agricultural trade with Cuba. The Florida Republican on Wednesday declared on Twitter that he'd block any new amendments to the farm bill unless the Senate votes to strike a provision that would allow USDA funding for foreign market development programs to be spent in Cuba - or until senators adopt his proposal to ban U.S. taxpayer dollars from being spent on businesses owned by the Cuban military.

**VA Nominee Faces Questions on Role in Jesse Helms Races**  
**Ben Kesling, The Wall Street Journal**

President Donald Trump's nominee to head the Department of Veterans Affairs has been preparing for his Senate confirmation hearing Wednesday by meeting with lawmakers in recent weeks to explain his views and his 30-year career in government as well as fielding questions about any role he has played in racially-charged politics. Robert Wilkie, a lawyer and Air Force Reserve officer currently serving as a Pentagon undersecretary in the latest of his decades of government and defense contracting posts, differs from many of the Washington outsiders usually preferred by Mr. Trump.

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## House

**Rosenstein and FBI chief will testify today in the House on alleged FBI bias in Russia probe**  
**Chris Megerian, Los Angeles Times**

As President Trump continues to rage against the Russia investigation clouding his administration, House Republicans are calling in top law enforcement officials for questioning and are escalating their demands for sensitive documents about the case. Deputy Atty. Gen. Rod Rosenstein and FBI Director Christopher Wray, both of whom were appointed by Trump, are scheduled to testify Thursday before the House Judiciary Committee about a recent Justice Department inspector general report that White House allies claim proves bias among FBI investigators in the Russia probe.

**Embattled FBI agent meets with Congress behind closed doors in 11-hour marathon**

**Jeremy Herb et al., CNN**

Embattled FBI agent Peter Strzok told lawmakers Wednesday in a marathon, closed-door interview that the anti-Trump text messages he exchanged with an FBI lawyer were part of an "intimate" conversation and he did not intend to act on any of the missives, according to Democrats in the meeting. But Republicans argued that Strzok's claims about the messages after the fact were simply not credible, and one lawmaker claimed to have learned new information from his interview Tuesday with the House Oversight and Judiciary Committees.

**Pelosi's path to speakership gets even harder**  
**Heather Caygle and John Bresnahan, Politico**

Rep. Joe Crowley's stunning loss on Tuesday night to a first-time candidate makes this crystal clear: Nancy Pelosi's path back to the speaker's chair is getting more narrow by the day. But it may not ease the route for the leaders directly below her either.

**'Defining moment.' Activists say it's time for leadership change in the Democratic Party**  
**Alex Roarty, McClatchy DC**

Alexandria Ocasio-Cortez is young, Latina, and boldly progressive - in other words, everything the Democratic Party's leadership is not. The party's activists are ready for that to change.

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## States

**Potentially expanding his executive power, Gov. Greg Abbott orders agency heads to run proposed rules by him first**  
**Emma Platoff, The Texas Tribune**

In a move that could expand the powers of his office, Gov. Greg Abbott has told Texas state agencies to submit proposed new rules to him before they are made available for public comment. Citing the "success of regulatory review at the federal level," Abbott's office wrote in a June 22 letter obtained by The Texas Tribune that his staff would review policies before they're published in the Texas Register, much as presidents do at the national level.

**New York Attorney General Probes T-Mobile-Sprint Deal's Impact on Prepaid Services**  
**Sarah Krouse and Corinne Ramey, The Wall Street Journal**

The New York attorney general's office is investigating how T-Mobile US Inc.'s \$26 billion deal to buy Sprint Corp. could impact competition in the pay-as-you-go wireless market, according to people familiar with the matter. Representatives from the state attorney general's office have contacted companies that sell prepaid phone services in recent weeks with questions about pricing and customers, the people said.

**Judge again orders Trump voter fraud commission to give documents to Maine's secretary of state**  
**Eric Russell, Portland Press Herald**

A federal judge has for the second time ordered the Trump administration to turn over documents to Maine Secretary of State Matthew Dunlap related to his participation on a presidential

commission on voting integrity. The order, issued Wednesday by U.S. District Judge Colleen Kollar-Kotelly in Washington, D.C., rejects the commission's contention that Dunlap is no longer entitled to any documents now that the commission is dissolved.

**As they voted in Democratic primary, many Marylanders appeared inclined to back Hogan this fall.**

**Steve Thompson and Fenit Nirappil, The Washington Post**

Dwight Hunter is tired of hearing about President Trump. Doesn't want to think about him. And like most Democrats, wishes his presidency were already over.

## **Advocacy**

**Inside Facebook and Twitter's secret meetings with Trump aides and conservative leaders who say tech is biased**

**Tony Romm, The Washington Post**

Twitter and Facebook are scrambling to assuage conservative leaders who have sounded alarms - and sought to rile voters - with accusations that the country's tech giants are censoring right-leaning posts, tweets and news. From secret dinners with conservative media elite to private meetings with the Republican National Committee, the new outreach reflects tech giants' delicate task: satisfying a party in power while defending online platforms against attacks that threaten to undermine the public's trust in the Web.

**Koch Network Plans To Spend Millions Backing Trump's Court Pick**

**Kevin Robillard, HuffPost**

The powerful Koch network of conservative megadonors plans to spend seven figures backing President Donald Trump's Supreme Court pick if he nominates a candidate similar to Justice Neil Gorsuch to replace the retiring Anthony Kennedy, a network official said Wednesday. "Faced

with a vacancy on the highest court, we encourage President Trump to build on that success by nominating a Supreme Court Justice in the spirit of Justice Neil Gorsuch - a nominee who will respect the rule of law, interpret the Constitution as written, and not seek to advance a political agenda," said Sarah Field, the vice president for judicial strategy at conservative advocacy group Americans for Prosperity.

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## **Opinions, Editorials and Perspectives**

### **With Kennedy Gone, Justice Must Be Won at the Ballot Box**

**The Editorial Board, The New York Times**

If the last few days hadn't been dispiriting enough for those who believed the Supreme Court could still stand for reproductive freedom, equal rights for all Americans, a check on presidential power, a more humane criminal justice system and so much more, Wednesday afternoon brought the coup de grâce. Everyone knew it was coming sooner than later, but Justice Anthony Kennedy's retirement, which he announced in a letter released hours after the court had issued its final rulings of the term, is still crushing.

### **Kennedy's retirement opens a void at the court's center**

**Editorial Board, The Washington Post**

Justice Anthony M. Kennedy's 30-year career on the Supreme Court was a historical accident. President Ronald Reagan's first choice to replace retiring Justice Lewis F. Powell Jr. in 1987 was Judge Robert H. Bork, a cerebral but overly doctrinaire conservative; his nomination failed by a 58-to-42 vote in the Senate.

### **The Supreme Court's Banner Year**

**The Editorial Board, The Wall Street Journal**

The Supreme Court concluded a blockbuster term on Wednesday with a landmark ruling upholding the First Amendment rights of public workers. Justice Neil Gorsuch's first term on the Court and Anthony

Kennedy's last turned out to be a banner year for constitutional liberties. The Court saved its most anticipated decision for last as a 5-4 majority in Janus v. Afscme overturned the Court's flawed 1977 Abood decision that allowed states to require workers who don't belong to a union to pay "agency fees" to support collective bargaining.

**Analysis: Where Do We Go From Here?**  
**Stuart Rothenberg, Roll Call**

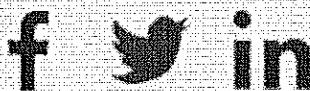
On Monday evening, Judy Woodruff asked me and USA Today's Susan Page on the "PBS NewsHour" how the country moves forward from its current state of division. I didn't have a good answer.

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## Research Reports and Polling

**Sixty-Two Percent View Planned Parenthood Favorably**  
**Jim Norman, Gallup**

Sixty-two percent of Americans hold a favorable opinion of Planned Parenthood, the powerful pro-choice group whose high-profile role in the abortion debate has thrust it into the news once again this month. President Donald Trump and Republican congressional leaders are attempting to cut off federal funding for the organization because of its role as a major provider of abortions across the nation.



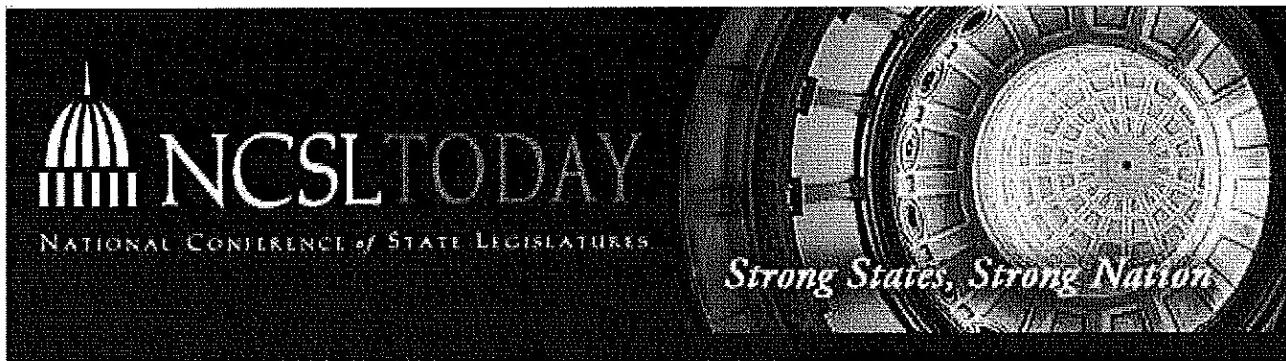
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**From:** NCSL TODAY  
**Sent:** Thursday, June 28, 2018 11:01 AM  
**To:** Rep48  
**Subject:** Hey, you, behind the wheel: Turn off 'Survivor'

NCSL Today | Manage your subscription



## TOP NEWS June 28, 2018

### States cracking down on streaming video while driving

*USA TODAY*

Georgia isn't the only state to single out streaming as a new danger. A Washington state law, the Driving Under the Influence of Electronics Act, in January was the first to specifically mention video on phones. It even makes it illegal for Washington drivers to sneak a peek at their smartphone when stopped in traffic or at a stoplight, though they can touch a mounted or in-dash screen.

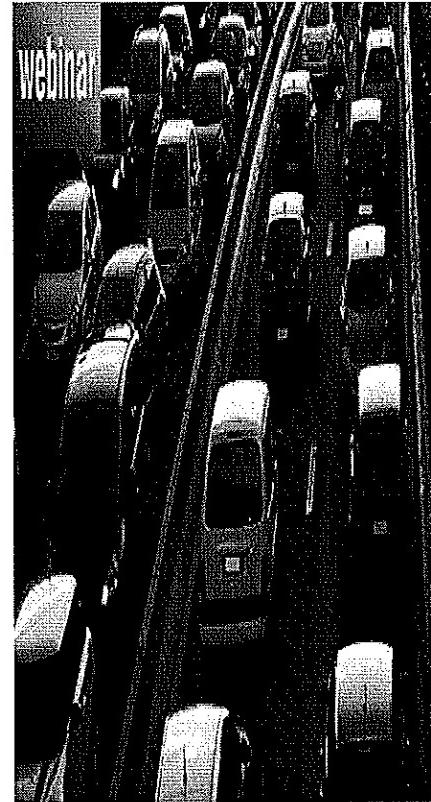
**NCSL's Annie Kitch quoted.**

[NCSL resources on distracted driving.](#)

### 'Now comes the interesting part' with online sales tax collections

*Route Fifty*

The court ruling in *South Dakota v. Wayfair, Inc.* has



also left complicated questions in its wake. Like what the specifics of new state policies could look like, whether Congress will take action, and how companies that sell goods online will react. NCSL's Max Behlke quoted.

### **Maine legislature passes sweeping medical marijuana reform bill**

*Portland Press Herald*

The bill, which now goes to Gov. Paul LePage, would let caregivers expand their business operations. For example, they could hire more than one worker, and sell up to 30 percent of their harvest to other caregivers and dispensaries.

[NCSL resources on medial marijuana.](#)

### **Ohio legislature passes blockchain legislation**

*Cleveland.com*

Ohio is close to becoming the latest state to offer legal support for blockchain-based business transactions, following a Wednesday vote by the state's General Assembly.

[NCSL LegisBrief on blockchain technology.](#)

### **South Carolina lawmakers OK rate cuts for failed nuclear plants**

*Associated Press*

South Carolina lawmakers have approved a temporary rate cut of nearly 15 percent for customers of a private utility who paid billions for two nuclear reactors that never produced power.

### **Webinar 3 p.m. ET TODAY Federal infrastructure funding - an update while we wait**

One of the most talked-about possibilities for federal action in 2018 is a new infrastructure bill that aims to inject what nearly all experts agree is a significant boost of funds for many of our national infrastructure systems.



= A

### **2017 state tax actions**

Hear from thought leaders at NCSL's Legislative Summit July 30-Aug. 2

Connect with the new NCSL Events mobile app



### **Supreme Court deals blow to unions in Janus case**

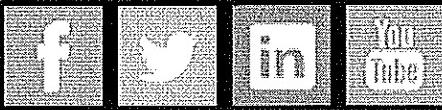
The U.S. Supreme Court held 5-4 in *Janus v. AFSCME* that state statutes allowing public sector employers and unions to agree that employees who don't join the union must still pay their

## **Commercial spaceports still waiting for liftoff**

*Stateline*

Communities are eager to tap into the growing commercial space industry.

"fair share" of collective bargaining costs violate the First Amendment.



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**From:** MWH Law Group  
**Sent:** Friday, June 29, 2018 1:29 PM  
**To:** Rep48  
**Subject:** Landmark Labor Decision by United States Supreme Court



## Landmark Labor Decision by United States Supreme Court

By Julie T. Bittner - Partner, West De Moines, IA

In this week's landmark decision, the United States Supreme Court ruled that government workers who choose not to join a union cannot be charged for the cost of collective bargaining. Justice Samuel Alito wrote the majority opinion and the court's conservative justices joined. [View case here](#).

In *Janus v. American Federation of State, County, and Municipal Employees, Council 31, et al.*, the Petitioner Mark Janus was an Illinois state employee whose unit is represented by a public-sector union. Mr. Janus refused to join the union because he opposed many of the union's decisions, including those taken in collective bargaining. Employees who declined to join the

union were not assessed full union dues but instead were required to pay an “agency fee” which was a percentage of the union dues (here 78.06% of full union dues).

The employees were not asked and were not required to consent before the fees were deducted. In Illinois, the nonmembers were told that the agency fee covered lobbying, social and recreational activities, advertising, membership meetings and conventions and litigation, as well as other unspecified services that “may ultimately insure to the benefit of the members of the local bargaining unit.” Mr. Janus sued challenging the constitutionality of agency fees. In his case, the fees amounted to about \$535/year.

This week, the Supreme Court held that the State’s extraction of agency fees from nonconsenting public-sector employees violates the First Amendment. In its decision, the Court overturned a 41-year-old decision, *Abood v. Detroit Bd. Of Ed.*, 431 U.S. 209 (1977) and overturns laws in 22 states.

In addition to the historic argument in *Abood* regarding ‘free riders,’ Respondents argued that mandatory agency fees were necessary for unions to bargain with an adequately funded budget and to improve the efficiency of the work force. Respondents argued agency fees are needed to prevent nonmembers from enjoying the benefit of union representation without shouldering the costs (free-riding). The Supreme Court rejected each argument in turn, finding that the government’s proffered interests did not justify the heavy burden of agency fees on nonmembers’ First Amendment interests.

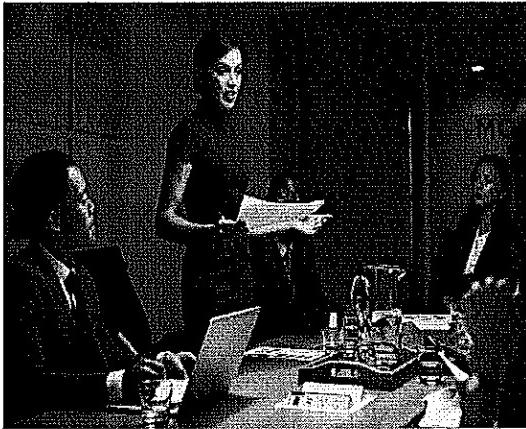
As a result, states and public-sector unions may no longer extract agency fees from nonconsenting employees. The Court held the First Amendment is violated when money is taken from nonconsenting employees for a public-sector union; employees must choose to support the union before anything is taken from them. Public-sector unions are still free to organize and represent their members, but cannot compel non-members to support their activities.

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*legal advice or a legal opinion on any specific facts or situations. For further information on your own situation, we encourage you to contact the author of the article or any other member of the firm.*

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## Diversity and Inclusion



### Women's Issues in Legal Roles

More women are now graduating from law school than ever before and many are facing adversity with in-house legal departments. Here are a few professional tips to deal with challenges head-on.

[Read More >>](#)

## Professional Development



### The Art of Negotiation

As a successful lawyer, the essential ingredient for career advancement is being able to negotiate. Choosing what negotiation style to employ can be a determinative factor in winning cases and thriving in business.

[Read More >>](#)

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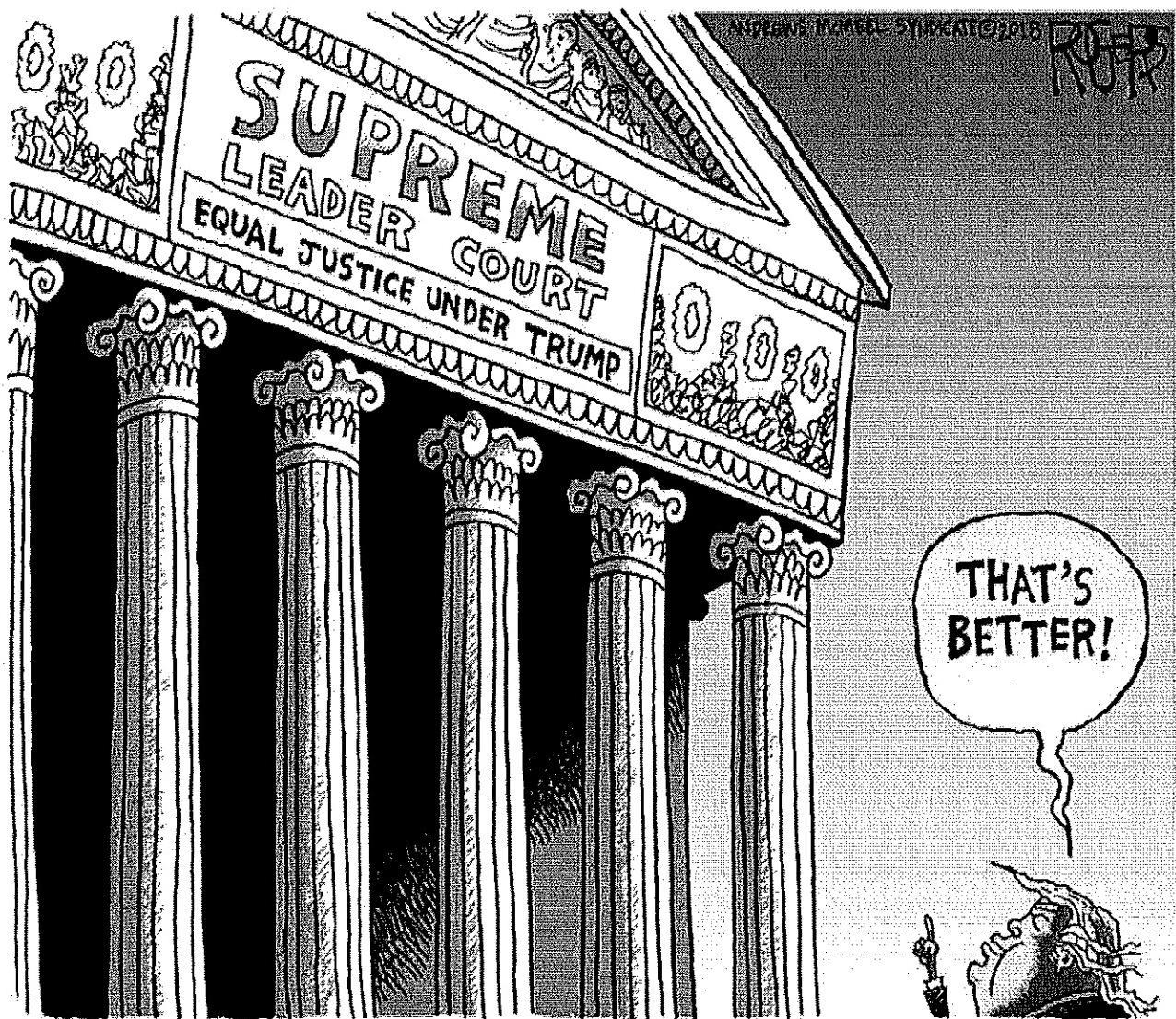
**From:** MPEN Ohio  
**Sent:** Sunday, July 1, 2018 9:58 PM  
**To:** Rep48  
**Subject:** MPEN e-Newsletter No. 2018-07-01

**MPEN e-Newsletter No. 2018-07-01**

- FW: What Are YouDoing To Stop Him?
- FW: What happened on Saturday, June 30, 2018
- FW: Next steps (RSVP for Monday's call with Rep. Jayapal and Karine Jean-Pierre?)
- FW: Ivanka Trump did something WILDLY unethical
- FW: Supreme Court deals major blow to public sector unions; Justice Kennedy to retire
- FW: Add your name: No Supreme Court confirmations for Trump while he is under criminal investigation
- FW: Remember Merrick Garland? Tell the Senate NO VOTE on SCOTUS nominee!
- FW: Issues in Healthcare
- FW: Trump appointee guts UN document on racism, says leaders don't have duty to condemn hate speech
- FW: Trump administration JAILING immigrants:
- FW: Maxine Waters DECLARED WAR against Trump on MSNBC [WE LOVE HER!]

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**From:** Jim Denton  
**Subject:** What Are YouDoing To Stop Him?



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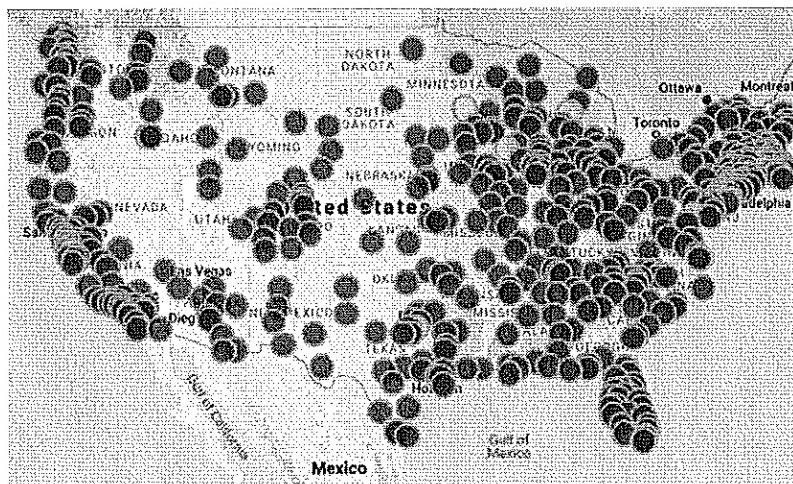
**From:** Anna, Ben, Karine, Corinne, and the rest of the team, MoveOn Civic Action  
**Subject:** What happened today

After weeks of heartbreaking images, here are some beautiful rays of hope:



In Washington, D.C., today, 35,000 demonstrators braved 96-degree temperatures to march on the White House and send a crystal-clear message: Families Belong Together. There were 30,000 participants in New York, 60,000 in Chicago, more than 70,000 in Los Angeles, and huge turnouts from Orlando, Florida, to Austin, Texas, to Boise, Idaho (which is one of the pictures above!). We were everywhere.

Here's the eye-popping map of all the protests, one dot per demonstration, spanning all 50 states, as hundreds of thousands of us gathered in cities from Antler, North Dakota, to Lake Worth, Florida:



More than 750 cities. One message. This is what it looks like when a nation speaks with one voice.

The past few weeks have been excruciating. We've learned about unspeakable abuses being perpetrated in our name. And at the same time, the Supreme Court upheld the Muslim Ban, which keeps yet more families separated. A Supreme Court retirement means fundamental rights for women and the LGBTQ+ community—among others are now on the line for a generation.

And for the thousands of parents and children in cages, not knowing if they'd ever see their family members again, it was, and remains, infinitely worse.

**But today was a ray of hope.**

It was a reminder that, for all the chaos and cruelty of those in power, a massive and growing movement exists in every corner of the nation that still believes in fundamental decency. It was a reminder that—at the ultimate wellspring of power in the American political system—the core values of we, the people blaze, undiminished, indivisible.

The horror that so many of us feel about the devastating policies of our government won't go away due to a march. But we are here, we are ready to fight, and we won't go away. This administration hopes to crush our will to resist. Today, we made clear that they will fail.

In the days ahead, we'll be sharing more actions we, together, can take next to build upon this momentum, end these terrorizing and traumatizing policies, hold abusers accountable, and reunite families. Our movement needs to:

- **Keep up the heat on decision-makers everywhere.** We'll organize more in-person actions to create pressure to reunite families, close family prisons, and end indefinite detention—working with Indivisible, the National Domestic Workers Alliance, and other organizations.
- **Hold corporations accountable** for profiting off this system—companies such as Wells Fargo must be held accountable for their role in funding family separation infrastructure.
- **Rein in the excesses of the brutal Immigration and Customs Enforcement (ICE) officers** who are terrorizing communities and tearing apart families across the country.

And we need to make sure everyone who is eligible registers to vote—a critical way to get involved with all the issues that matter to all our communities and families.

More on all of that soon. Watch your email for opportunities to take action, or join MoveOn's SMS list to get text messages with alerts about clear, impactful actions by texting FAMILY to 668366.

**We decided to throw down on this national day of action less than two weeks ago.** Our close partner, Rep. Pramila Jayapal, first publicly announced it on Chris Hayes's television show, the next day. In response, communities everywhere—including longtime immigrant leaders who've been at this for years and decades, along with newcomers to action for immigrant rights—have organized one of the biggest protests of the Trump era.

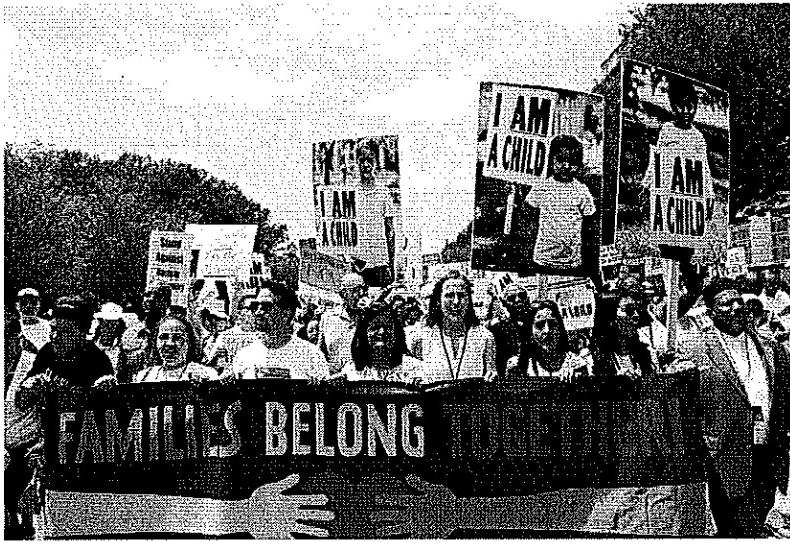
All together, more than 180 partner organizations came together to pull this off, including MoveOn, the National Domestic Workers Alliance, the Leadership Conference for Civil and Human Rights, the ACLU, faith groups such as Sojourners and the Presbyterian Church, Avaaz, the Southern Poverty Law Center, and a range of labor unions, the YWCA, scores more tremendous allies and partners, and countless local groups in cities large and small, united across lines of ethnicity, race, national origin, and language.

**When you feel alone, when it's all too much, remember that what is possible when we come together.** That there is power in our numbers.

In the decades to come, people will ask themselves and each other what they did to fight the darkness at this moment in history.

Today, millions of us summoned a piece of an answer. We were in the streets. And we won't stop until we turn the darkness back.

P.S. We'll be sharing more photos and videos on social media throughout the days ahead. If you have any, email them to [photos@moveon.org](mailto:photos@moveon.org) or post them on Facebook or Twitter and tag @MoveOn with the hashtag #FamiliesBelongTogether. Here are a few more images from around the country today= 2including Representative Pramila Jayapal and Lin-Manuel Miranda, Ai-jen Poo, Vanita Gupta, and me at the head of the march from the D.C. rally to the Department of Justice.



**Want to support MoveOn's work?** We didn't budget for today's million-dollar national protest against children being torn away from their parents on our border, in our name. And, as Elizabeth Warren said in an email to MoveOn members this past week, it feels like "the world is on fire." We still must continue fighting to keep families together AND throw down with partners on an emergency campaign to help save the Supreme Court from a full-on right-wing takeover in light of Justice Kennedy's departure—AND make sure that we don't have to make cuts to our other critical work. To do it, we need your ongoing support, now more than ever. **Will you stand with us?** [Donate monthly](#) or [make a one-time gift](#)

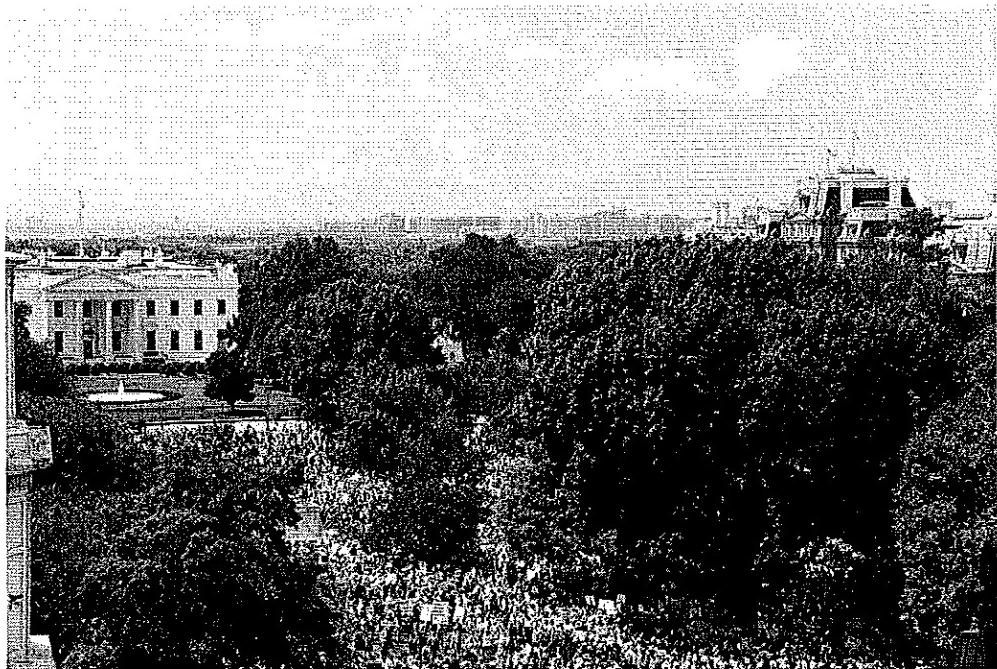
Contributions to MoveOn.org Civic Action are not tax deductible as charitable contributions for federal income tax purposes.

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**From:** Victoria, Shari, Karthik, Scott, and the rest of the team, MoveOn Political Action  
**Subject:** Next steps (RSVP for Monday's call with Rep. Jayapal and Karine Jean-Pierre?)

Yesterday, I stood in 90+ degree heat with tens of thousands of people, young and old, at Washington, D.C.'s Families Belong Together rally and march. Today, I'm reading some of the hundreds of front-page news stories, scanning thousands of photos, sitting with my emotions, and strategizing. After a week of some terrible political news, the passion and commitment of yesterday's protests—more than 750 events in every corner of the country and across the globe—lifted my spirits. I know that we have the public and the momentum on our side.

**Tomorrow, I'm hosting a mass call with Representative Pramila Jayapal, one of the key architects of Saturday's rallies and marches, MoveOn national spokesperson Karine Jean-Pierre, and young MoveOn member Marwa E. to unveil MoveOn's 2018 Resist & Win grassroots volunteer election organizing program, and I hope you'll join us. [Click here to RSVP now for the web-streamed call tomorrow, Monday, July 2 at 8:30 p.m. ET \(7:30 CT/6:30 MT/5:30 PT\).](#)**



Now is the time to take inspiration from yesterday's incredible outpouring of solidarity, outrage, and compassion -- and make lasting political impact by voting out the people who are creating and enabling relentless attacks on immigrants and on the soul of our nation, and the rest of Trump's and the GOP's disastrous agenda.

Here are three next steps I invite you to take this week:

- **Join the What's Next? March to the Voting Booth call tomorrow, Monday, July 2 at 8:30 p.m. ET (7:30 CT/6:30 MT/5:30 PT)** to learn about MoveOn's Resist & Win 2018 election program. Together, we will work to end Republican control of the House and vote out politicians who are enabling family separation and detention and other attacks on our communities and democracy. [RSVP here for Monday's web-streamed live video call with Rep. Pramila Jayapal, Karine Jean-Pierre, and inspiring student activist and MoveOn member Marwa E.](#)
- **Apply to be a MoveOn 2018 Resist & Win Leader.** You'll help mobilize fellow MoveOn members and allies in one of 100 priority congressional districts. You'll get training, support, and the platform to lead local efforts that will help us end GOP control of Congress. Applications are due this Thursday, July 5, at 11:59 p.m. local time, so don't wait to apply. We especially encourage young people, students, people of color, immigrants, and LGBTQ people to apply to this multi-racial, inter-generational organizing program. [Click here to submit your application now.](#)
- **Order your free sticker to display in your community of a design that was seen at marches across the country.** The image by Pablo Stanley, an immigrant artist, can serve as an ongoing reminder of our shared values. Imagine members of Congress, when home in their districts, unable to get across town without seeing this tangible reminder of how many of us are fighting alongside immigrant families. We printed a batch of these stickers and are giving them away for FREE until we run out of stock. [Just click here to order yours.](#) (You can see an picture of this image projected onto the side of the Newseum, which MoveOn Civic Action and partners arranged on the eve of the Family Belong Together actions, below.)



There's no sugar-coating this. We have our work cut out for us.

But I know we are turning the tide in this fight—and as so many people chanted together yesterday, "We won't turn back."

P.S. Here are just three of the hundreds, perhaps thousands of media stories about what people like YOU made possible yesterday:

- ["Family Separation Protests Shift the Narrative"](#)  
*The Atlantic*, June 30, 2018
- ["Protesters flood US cities to fight Trump immigration policy"](#)  
*Associated Press*, July 1, 2018
- ["In 50 states, hundreds of thousands protest immigration policy, with focus on midterms"](#)  
*USA Today*, June 30, 2018

**[RSVP here to join Rep. Pramila Jayapal and Karine Jean-Pierre Monday night,](#)** and [click here to apply to become a MoveOn 2018 Resist & Win Leader.](#)

**Want to support MoveOn's work?** Senator Jeff Merkley says: "MoveOn has been fighting Donald Trump's horrific anti-immigrant policies every day since he took office, and they will continue to fight every day until a new Congress—and a new president—put a stop to these policies once and for all. If you believe that separating

children from their families is wrong—and that it's got to stop—then will you chip in monthly, so that MoveOn can campaign against this moral outrage and build the political power to stop this and other horrific policies?" **Chip in now:** [Donate monthly](#) or [make a one-time gift](#)

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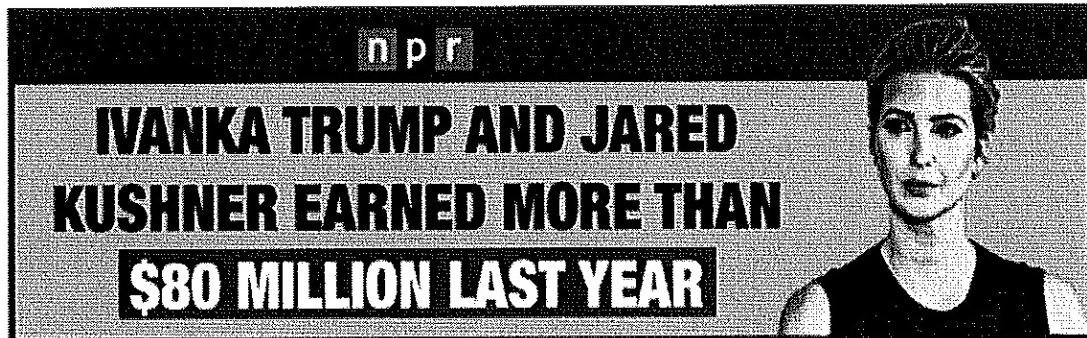
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**From:** NPR Bombshell via FightforReform.org  
**Subject:** Ivanka Trump did something WILDLY unethical

**BREAKING ON NPR:** Ivanka Trump made \$82 MILLION in outside income last year while working at the White House.



This NPR report just EXPOSED Ivanka Trump:



**Here's the simple truth:** Ivanka is advising on government decisions while she's **STILL** entangled in the family's businesses.

**And some of those businesses have foreign connections:**

*The Trump Organization is still creating luxury resorts around the world, and its projects involve hiring state-owned companies to do construction and receiving payments from foreign officials.*

*-THE HILL*

*It's shady. It's unethical. And it's potentially illegal!*

We think Ivanka Trump should resign her position in the White House immediately!  
But we need to hear from members like you now:

**Should Ivanka Trump RESIGN?**

YES: Ivanka Should Resign >>

NO >>

**From:** CLG\_News

**Subject:** Supreme Court deals major blow to public sector unions; Justice Kennedy to retire

**News Updates from CLG on 28 June 2018**

<http://www.legitgov.org/>

All links are here: [http://www.legitgov.org/#breaking\\_news](http://www.legitgov.org/#breaking_news)

**Justice Anthony Kennedy to Retire From Supreme Court** | 27 June 2018 | Justice Anthony M. Kennedy announced on Wednesday that he would retire, setting the stage for a furious fight over the future direction of the Supreme Court. Justice Kennedy, 81, has long been the decisive vote in many closely divided cases. His retirement gives President Trump the opportunity to fundamentally change the course of the Supreme Court. A Trump appointee would very likely create a solid five-member conservative majority that could imperil abortion rights and expand gun rights...Justice Kennedy wrote the majority opinion in Citizens United, which allowed unlimited campaign spending by corporations and unions [aka Deep State], and he joined the majority in Bush v. Gore, which handed the 2000 presidential election [aka coup d'etat] to George W. Bush.

**Trump begins Supreme Court search to replace Anthony Kennedy** | 28 June 2018 | US President Donald Trump has said the search for a replacement for retiring Supreme Court Justice Anthony Kennedy will "begin immediately". "We have to pick one that's going to be there for 40 years, 45 years," Mr Trump said at a rally in North Dakota. The retirement of Mr Kennedy, a conservative who sided with liberals on many votes, gives Mr Trump the chance to shift the balance of the top court further to the right for decades to come. The judge, 81, will retire on 31 July.

**Chris Matthews: Dems Should Boycott Trump Court Nominee** | 27 June 2018 | MSNBC's Chris Matthews called on Democrats to obstruct the nomination of Justice Anthony Kennedy's replacement to the Supreme Court Wednesday, minutes after Kennedy announced his retirement. "I don't think the Democrats should allow even meetings to occur for Trump's nominee to fill this vacancy by Justice Kennedy," Matthews said on MSNBC's Hardball. "I think they have to fight eye for an eye for what happened in '16, where the Republicans led by Mitch McConnell refused to even consider or meet with Merrick Garland. I think if the Democratic leadership under Schumer allows this to go forward, they're going to have a huge problem with the Democratic base."

**Supreme Court deals major blow to public sector unions** | 27 June 2018 | The Supreme Court dealt a major blow to public sector unions on Wednesday in a case that could shake their financial structure and undermine their future stability. The

justices struck down an Illinois law that required non-union workers to pay fees that go to collective bargaining and overturned a 1977 law that required employees to pay so-called "fair share" fees. The ruling was 5-4 along familiar ideological lines...Wednesday is the second time in recent weeks where a 5-4 court has infuriated advocates for workers' rights. The court ruled in May that employers could require employees to sign class action waivers in employment arbitration agreements that bar them from banding together to fight legal disputes.

**Supreme Court rules non-union workers cannot be forced to pay fees to public sector unions** --Experts said that a holding in favor of Janus would be the most significant court decision affecting collective bargaining rights in decades. | 27 June 2018 | The Supreme Court ruled 5-4 Wednesday that non-union workers cannot be forced to pay fees to public sector unions. The case, one of the most hotly anticipated of the term, concerned whether public employees can be forced to pay fees that fund the work of public sector unions. Mark Janus, an employee at the Illinois Department of Healthcare and Human Services, asked the court last summer to overrule a 40-year-old Supreme Court decision. It found that public sector unions could require employees affected by their negotiations to pay so-called "agency fees," which have also been called "fair share fees."

**Supreme Court upholds travel ban, handing Trump major victory** | 26 June 2018 | The Supreme Court handed President Trump a major victory on Tuesday, upholding his ban preventing nationals from five Muslim-majority countries from entering the United States. In a 5-4 ruling, the court's conservative wing said Trump has broad discretion under immigration law to suspend the entry of people into the United States. "The president lawfully exercised that discretion based on his findings -- following a worldwide, multi-agency review -- that entry of the covered aliens would be detrimental to the national interest," Chief Justice John Roberts wrote in the opinion.

**Supreme Court rules for Texas in redistricting case** | 25 June 2018 | The Supreme Court on Monday largely ruled in favor of Texas, reviving congressional and legislative districts that were struck down by a lower court for diluting the votes of black and Hispanic voters. In a 5-4 decision, the justices said there isn't enough evidence to prove that state Republicans acted in bad faith and engaged in intentional discrimination when it adopted new maps in 2013 for two congressional districts and several legislative districts. But the court said the lower court was correct in ruling that one legislative district was a racial gerrymander.

**Supreme Court rules law enforcement needs warrant to search cellphone data** | 22 June 2018 | The Supreme Court ruled Friday that law enforcement in most cases has to obtain a warrant in order to search and seize long-term cell phone records that

would show a person's location. In a 5-4 ruling, the court held that the Fourth Amendment's protections against an unreasonable search protects people from having the government acquire their cell-site records from wireless providers in run-of-the-mill criminal investigations. Chief Justice John Roberts sided with the court's four liberal justices, Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan, to make up the majority. Justice Anthony Kennedy dissented along with conservative Justices Clarence Thomas, Samuel Alito and Neil Gorsuch.

**White House, Kremlin agree on time and place for Trump-Putin summit | 27**

June 2018 | The White House and the Kremlin have agreed on a time and place for a summit meeting between President Trump and Vladimir Putin, a Russian official said Wednesday after talks here between the Russian president and national security adviser John Bolton. The details of the much-anticipated meeting will be announced Thursday, the official, Kremlin foreign policy adviser Yuri Ushakov, told reporters. The meeting is expected to take place in mid-July, when Trump will be in Europe for previously scheduled visits to Belgium and Britain..."Your visit here to Moscow inspires hope that we will be able to take first steps to restore full-fledged relations between Russia and the United States," Putin said.

**US military indefinitely suspends two training exercises with South Korea | 22**

June 2018 | The Pentagon announced Friday that the U.S. would indefinitely suspend two training exercises with South Korea as part of the Trump administration's push to negotiate for the removal of North Korea's nuclear arsenal. Pentagon chief spokeswoman Dana White said that the decision reached by Defense Secretary James Mattis and national security adviser John Bolton would be contingent on future "good faith" negotiations and developments with North Korea and Kim Jong Un's government.

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**From:** Monique Teal, Daily Kos

**Subject:** Add your name: No Supreme Court confirmations for Trump while he is under criminal investigation

Supreme Court Justice Anthony Kennedy's retirement could upend the rule of law and put our democratic institutions at even higher risk.

Donald Trump is a subject of a criminal investigation over collusion with Russia in the 2016 election. Key questions in this investigation could very likely end up before the Supreme Court – and decided by a new Trump appointee.

**Sign and send a petition to your U.S. senators: No Supreme Court confirmations for Donald Trump while he is under criminal investigation**

**SIGN AND SEND A PETITION**

Trump and his Republican bootlickers have been working overtime to derail Special Counsel Robert Mueller's investigation. They have levied claims that the investigation is unconstitutional, that he can pardon himself, and that he is allowed to obstruct justice with total impunity. **One or more of these arguments will almost certainly reach the Supreme Court.**

Also of concern is Trump's record of demanding personal loyalty from those he appoints to key positions. He has already done so to Deputy Attorney General Rod Rosenstein and Attorney General Jeff Sessions in order to curb Russia investigation.

**His incessant demands for loyalty from officials in his administration and Republicans in Congress make it reasonable to surmise that Trump would levy a similar demand from a Supreme Court Justice nominee – especially considering they may be a crucial vote in any legal action impacting the Russia probe.**

**Sign and send a petition to your U.S. senators: No Supreme Court confirmations for Donald Trump while he is under criminal investigation**

**SIGN AND SEND A PETITION**

When Supreme Court Justice Neil Gorsuch was nominated, the Russia investigation wasn't public knowledge. Trump hadn't spent more than a year railing against it and attempting to strongarm officials in his administration and Congress into ending it. But now, **Trump's own actions have created the appearance of conflict for any nominee, all of whom would now look as if they are another part of Trump's attack on the rule of law.**

There is so much on the line in addition to the Russia investigation: The right to privacy -- including abortion rights and surveillance of U.S. citizens. Health care.

Religious liberty for all. Voting rights. Immigrants' rights. LGBTQ rights. The Supreme Court is the last check on Trump's excesses. **Let's make sure the next justice is free of any semblance of bias by postponing the confirmation until the investigation is complete.**

**Sign and send a petition to your U.S. senators: No Supreme Court confirmations for Donald Trump while he is under criminal investigation**

**SIGN AND SEND A PETITION**

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**From:** Ben Betz; Digital Advocacy Director, People For the American Way  
**Subject:** Remember Merrick Garland? Tell the Senate NO VOTE on SCOTUS nominee!

**NO VOTE on a new Supreme Court nominee until AFTER the election and  
AFTER the new Congress is seated in January!**



The retirement of Justice Anthony Kennedy -- the Supreme Court's last "swing vote" on critical issues like choice and LGBTQ equality -- gives Donald Trump the chance to drastically reshape the Court for a generation.

**But Mitch McConnell set a *new standard* by blocking Senate action on President Obama's Supreme Court nominee Merrick Garland until after the 2016 election. Now, especially with all that's at stake, the Senate should be fair and consistent and hold to that standard.**

**There should be NO hearing or vote on any new Supreme Court nominee until after the midterm elections and after the new Congress is seated in January!**  
**Sign if you agree>>**

Unlike President Obama, Trump is a scandal-plagued president who won his election under a cloud of foreign interference on his behalf, and he has shown an inclination to go with the most extreme policies and nominees at every turn. **The American people deserve a chance to speak via the democratic process before any new Supreme Court nominee is considered.**

*McConnell is already saying he wants a vote on whoever Trump nominates by the fall.*

**US SENATORS: There should be NO hearing or vote on a new Supreme Court nominee until after the midterm elections and after the new Congress is seated in January!**

**Add My Name>>**

This is a pivotal moment for our democracy.

**We've seen a Supreme Court seat STOLEN (by Mitch McConnell)... An election STOLEN (by Trump and the Russians)...**

**Now, everything we care about is on the line -- because what the Supreme Court does touches *every* issue and *every* community.**

A growing number of Democratic senators, including Minority Leader Chuck Schumer, are already calling for a delay in considering any new Trump nominee until after the election.

All senators -- especially Republicans and especially the leadership -- need to hear a massive groundswell of Americans calling for the same.

**Add your name immediately to demand that any new Supreme Court nominee not be considered until after the election year>>**

Right now, Trump has a "short list" of 25 potential nominees who are -- every single of them -- extreme and unacceptable.

The list is made up of unqualified, narrow-minded elitists who have passed Trump's rigid litmus test of being anti-choice and anti-health care -- that is, they would be reliable votes to overturn *Roe v. Wade* and strike down the Affordable Care Act.

Not a single nominee on that list deserves to be considered or confirmed on their own merits, and if Trump nominates someone from that list, you can bet your ass that we're going to FIGHT tooth-and-nail to keep them off of our Supreme Court.

**All the more reason why senators should hold off on considering any new nominee until after the newly elected Congress is seated next year.**

**Make sure they hear it from you and they know how much you care about this.**

**Sign the petition now>>**

---

**From:** Thomas Scott  
**Subject:** Issues in Healthcare

- Unlocked And Loaded: Families Confront Dementia And Guns
  - Why some employers are turning to progressive health benefits
- 

**From:** Andrew Tierman  
**Subject:** Trump appointee guts UN document on racism, says leaders don't have duty to condemn hate speech

<https://www.cnn.com/2018/06/29/politics/veprek-state-dept-un-racism/index.html>

Trump admin protests against UN language calling racism inconsistent with

democracy and calling for leaders to condemn racism, nationalism, and xenophobia, in true fascist form...bringing the US closer to the practices of fascism. All Americans need to . . .

---

**From:** Progressive Caucus  
**Subject:** Trump administration JAILING immigrants:

**Progressive Caucus Members Announce Bill to ABOLISH ICE!**

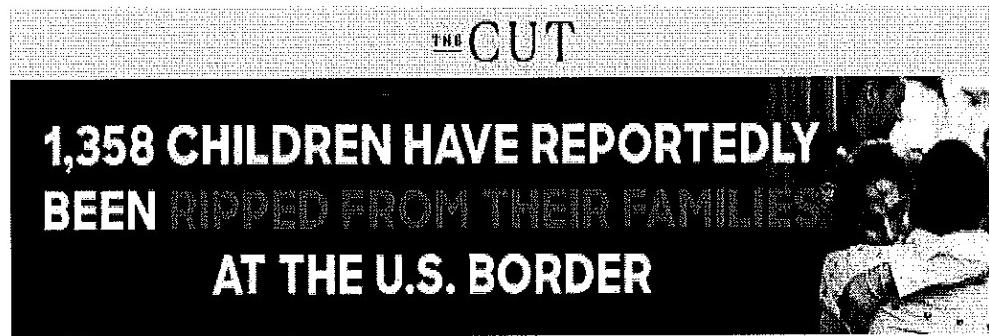
Under Trump, U.S. Immigration and Customs Enforcement (ICE) has ripped families apart, thrown children in cages, and imprisoned refugees.

*Its continued existence is a stain on our Democracy. So Progressive Caucus Co-Chair Mark Pocan just announced that he will be introducing a bill to ABOLISH it!*

**But to make his proposal a reality, we need 20,000 supporters to co-sign the bill to ABOLISH ICE:**

**STAND WITH PROGRESSIVES: ABOLISH ICE →**

*This is SICKENING:*



With Trump's backing, ICE has abused their power in order to tear apart families, harass immigrants, and throw people in prisons.

***This is monstrous. As Progressives, we have a responsibility to take action.***

That's why Congressman Mark Pocan is introducing a bill to ABOLISH ICE, and

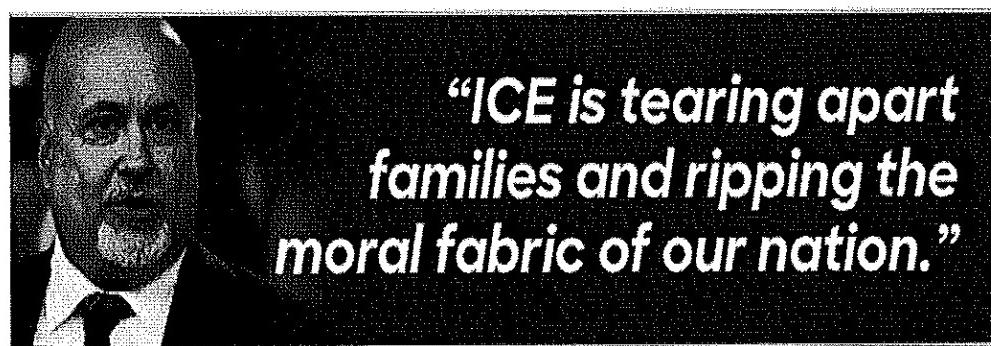
stop its abuses once and for all.

*But to pass a bill like this, we need a wave of grassroots support.*

**So sign your name to co-sign the bill to ABOLISH ICE:**

**STAND WITH PROGRESSIVES: ABOLISH ICE →**

Congressman Pocan recently visited a border detention facility run by ICE, and what he saw was HORRIFIC:



We owe it to immigrant communities throughout America to get RID of this abusive organization.

**The stakes are too high not to act.**

But in order to get Congressman Pocan's bill passed, we need 30,000 Progressives like you to stand with us.

**Sign now to co-sign the Congressional bill to ABOLISH ICE:**

**SIGN ON: ABOLISH ICE →**

---

**From:** Alert on MSNBC: Progressive Turnout Project  
**Subject:** Maxine Waters DECLARED WAR against Trump on MSNBC [WE LOVE HER!]

**Maxine Waters DECLARED WAR against Donald Trump:**



*WE. LOVE. MAXINE!!*

*Thanks to her, we have a real shot at ENDING Trump= 2s Presidency.*

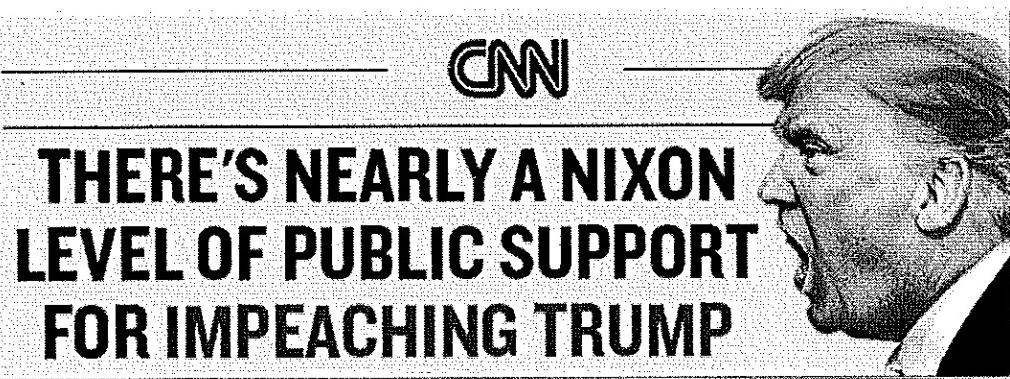
But Trump's launching NASTY attacks against Maxine, so we need 100,000 Progressives to stand with her!

Stand with Maxine: Demand Congress to IMPEACH Trump →

SIGN TO IMPEACH TRUMP →

We are SO sick of Trump covering up for his corrupt family members, defending white supremacists, and breaking the law.

*And now, more Americans than ever support impeaching Trump!*



Munsup, we need you to stand with Progressives. Will you add your name right now?

SIGN TO IMPEACH TRUMP →

Impeaching Trump won't just happen by itself. Please join us today.

--  
This message was sent to rep48@ohiohouse.gov by munsup@mpen-ohio.net

To forward this message, please do not use the forward button of your email application, because this message was made specifically for you only. Instead use the [forward page](#) in our newsletter system.

To change your details and to choose which lists to be subscribed to, visit your personal [preferences page](#) Or you can [opt-out completely](#) from all future mailings.



**From:** Public Policy Law360  
**Sent:** Tuesday, July 3, 2018 5:36 AM  
**To:** Rep48  
**Subject:** The Sharpest Dissents From The Supreme Court Term



Law360 Closed For Independence Day

Newsletter service will resume on Thursday, July 5.

Tuesday, July 3, 2018



## SUPREME COURT REVIEW

### Feature

#### **The Sharpest Dissents From The Supreme Court Term**

In its first complete term back at full strength since the death of Justice Antonin Scalia, the top U.S. court took on several cases that revealed deep divisions among its members. Here are the most stinging dissents. [Read more »](#)

### Feature

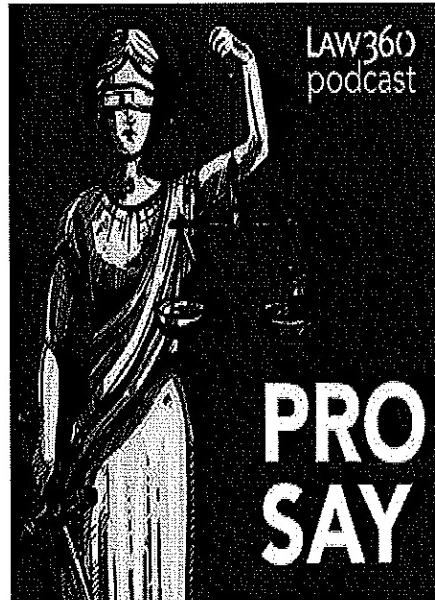
#### **Narrow Rulings Reveal Wide Gulls Between Justices**

With the Supreme Court largely punting on deciding the issues at the center of some of its biggest cases this term, the justices turned to concurrences to fight for the future of the law. [Read more »](#)

### Feature

#### **4 High Court Lineups That Might Surprise You**

While the justices tend to join most often with colleagues whose philosophy they share, even



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## LAW FIRMS

Baker Botts

Baker McKenzie

Ballard Spahr

politically charged cases can create groupings that defy easy categorization. Here are a few from the latest term. [Read more »](#)

Feature

### **The Funniest Moments Of The Supreme Court Term**

From a raucous house party to the often-disappointing taste of wedding cake, the justices found plenty to laugh about in the latest term. Here are the top moments of legal levity. [Read more »](#)

### **Trump Plows Ahead With Supreme Court Selection Process**

President Donald Trump is ramping up the process of replacing Justice Anthony Kennedy on the U.S. Supreme Court, interviewing four candidates Monday and revealing the White House staffers who are leading the selection effort. [Read more »](#)

Feature

### **High Court Nomination Watch: 7th Circ.'s Amy Coney Barrett**

Amy Coney Barrett has been sitting on the Seventh Circuit bench for only eight months, but she is rumored to be on President Donald Trump's shortlist for potential picks to replace Justice Anthony Kennedy on the U.S. Supreme Court. [Read more »](#)

Analysis

### **Kennedy's Exit Won't Tip High Court Balance For Banks**

Associate Justice Anthony Kennedy's retirement from the U.S. Supreme Court is unlikely to lead to a sharp swing in the high court's ideological balance when it comes to financial services issues, though it may open the door for less deference to federal financial regulators' statutory interpretations, experts say. [Read more »](#)

Analysis

### **How A More Conservative Court Could Change Telecom Policy**

Bernstein Shur  
Bloom Parham  
Bracewell  
Brashear LLP  
Broad and Cassel  
Buchalter PC  
Choate  
Clark Hill  
Cleary Gottlieb  
Cohen & Grigsby  
Covington & Burling  
Cravath Swaine  
Crowell & Moring  
Davis Wright Tremaine  
Dechert  
Dinsmore & Shohl  
Dorsey & Whitney  
Drinker Biddle  
Earthjustice  
Ellenoff Grossman  
Epstein Becker Green  
Fish & Richardson  
Fletcher Heald  
Foley & Lardner  
Foley Hoag  
Gibson Dunn  
Goodwin  
Goulston & Storrs  
Greenberg Traurig  
Hassell Law Group  
Hoguet Newman  
Holland & Knight  
Hudson Cook  
Hunton Andrews Kurth  
Jackson Lewis  
Jones Day  
Kilpatrick Townsend  
Lash & Goldberg

Justice Anthony Kennedy's upcoming retirement comes at a tumultuous time for the telecom industry as legal challenges to major Federal Communications Commission decisions play out in lower courts, including disputes over media ownership rules and net neutrality. [Read more »](#)

## TOP NEWS

### Feature

#### **Travel Ban And Beyond: The High Court's 9s Year In Immigration**

From the decision to uphold President Donald Trump's travel ban to a ruling on judicial notice that had much broader implications for the power of administrative immigration agencies, immigration cases were among the most highly watched on the U.S. Supreme Court's docket this term. Here, Law360 recaps those cases. [Read more »](#)

#### **Cell Data Privacy Ruling May Spawn Suit Avalanche, Attys Say**

The Supreme Court's recent decision limiting law enforcement's ability to subpoena cellphone location data is likely to spark a flurry of litigation, as a once-bright line rule regarding privacy rights for personal information held by third parties has been significantly blurred, the American Civil Liberties Union attorney who argued the case before the high court said in Washington, D.C., Monday. [Read more »](#)

### Analysis

#### **Fla. Faces Upstream Ga. Water Fight, Despite High Court Win**

The U.S. Supreme Court has breathed new life into Florida's lawsuit against Georgia over the use of water from a river basin by rejecting a report denying Florida's request to cap usage, but Florida is not out of the woods and must argue that saving its Apalachicola Bay fishery is worth inflicting some pain on Atlanta's growing metropolitan region. [Read more »](#)

### Analysis

Latham & Watkins  
Lawyers' Committee for Civil Rights  
Leech Tishman  
Littler Mendelson  
Manatt Phelps  
Marashlian & Donahue  
Mayer Brown  
McDermott Will  
McElroy Deutsch  
Milbank Tweed  
Morrison & Foerster  
Munger Tolles  
Nelson Mullins  
O'Melveny & Myers  
Olshan Frome Wolosky  
Orrick Herrington  
Paul Hastings  
Perkins Coie  
Pierce Atwood  
Priddy Cutler  
Prince Lobel  
Reed Smith  
Robins Kaplan  
Ropes & Gray  
Schiff Hardin  
Seyfarth Shaw  
Shapiro Arato  
Simpson Thacher  
Skadden  
Steptoe & Johnson LLP  
Strasburger & Price  
Trenk DiPasquale  
Wachtell Lipton  
Wilkinson Barker  
WilmerHale  
Wilson Sonsini

## COMPANIES

## **States Can Decide If Association Health Plans Sink or Swim**

The U.S. Department of Labor's recently finalized association health plan rule allows insurers to offer health care plans to small businesses and the self-employed that skirt certain Affordable Care Act requirements, but it also leaves state regulators with the authority to impose requirements on those plans that could mirror the ACA's. [Read more »](#)

Analysis

## **FERC Order On State Clean Energy Subsidies Roils Markets**

The Federal Energy Regulatory Commission's order last week requiring PJM Interconnection LLC to rewrite its wholesale electricity market rules in order to blunt the effects of state clean energy policies will only further inflame state-federal tensions over electricity policy and threaten the future of the very markets the commission aims to protect, FERC watchers say. [Read more »](#)

## **FEMA Sued For Planning Abrupt End To Disaster Aid Program**

After announcing it would end a program that paid for Hurricane Maria evacuees to stay in hotels, the Federal Emergency Management Agency was hit on Saturday in Massachusetts federal court with a proposed class action brought by Puerto Ricans seeking to block evictions that could put them on the streets. [Read more »](#)

## **BANKING & SECURITIES**

### **NYSE Pulls Proposal To Ease Rules On Blank Check Cos.**

The New York Stock Exchange has withdrawn a proposed rule change that would have made listings easier for blank check companies, following a similar withdrawal by rival exchange Nasdaq, according to a U.S.

AT&T Inc.

Adobe Systems Incorporated

Agenus Inc.

Airbnb Inc.

Altamont Capital Partners

Altman Weil Inc.

American Academy of Pediatrics

American Cable Association

American Civil Liberties Union

American Express Company

American Federation of State, County and Municipal Employees

American Immigration Lawyers Association

Association of Corporate Counsel

Celgene Corporation

Center for Human Rights & Constitutional Law

Chevron Corp.

Churchill Downs Inc.

Consumer Reports

DISH Network Corporation

Electric Reliability Council of Texas Inc.

Ennis Inc.

Environmental Defense Fund Inc.

Epic Systems Corp.

Ernst & Young

Facebook

FanDuel Inc.

Federalist Society

Google Inc.

H&R Block Inc.

H5

HSN, Inc.

Ion Media Networks Inc.

Jones Lang LaSalle Inc.

Kentucky Derby

LatinoJustice

Securities and Exchange Commission notice posted on Friday. Read more »

## ENERGY & ENVIRONMENTAL

### Feature

#### **New Earthjustice Prez's Game Plan: Fight Feds, Coax States**

Incoming Earthjustice President Abigail Dillen told Law360 in an exclusive interview that the environmental law group must pursue a two-pronged strategy: fighting policy rollbacks by the Trump administration while encouraging stronger clean energy and other climate change-friendly policies at the state and local level. Read more »

#### **Refiners Blew Chance To Fight Biofuel Regs, EPA Says**

The U.S. Environmental Protection Agency told the D.C. Circuit it was right to refuse to shift some of the burden for blending renewable fuels into the country's transportation fuel supply from refineries to fuel blenders, arguing that the refiners' challenge to the determination came too late under the Clean Air Act. Read more »

#### **Senator Seeks More State Control In ESA Amendments**

Republican Sen. John Barrasso of Wyoming on Monday released a draft of proposed changes to the Endangered Species Act that would elevate the role states play in conservation efforts, an idea that was criticized by environmental groups that accused the senator of trying to weaken the law. Read more »

#### **Warbler Still Endangered, Feds Tell Court In Texas ESA Suit**

The U.S. Fish and Wildlife Service has urged a Texas federal court to reject a state agency's claims that the FWS was unreasonable in keeping the golden-cheeked warbler on the endangered species list, arguing the state

Law Foundation of Silicon Valley  
Lions Gate Entertainment Corp.

Major League Baseball Inc.

Michelin Group

Microsoft Corporation

NASDAQ OMX Group Inc.

NFL Enterprises LLC

NJ Transit Corp.

National Basketball Association

National Basketball Players Association

National Center for Youth Law

National Collegiate Athletic Association

National Consumer Law Center

National Hockey League

New York Times Co.

PJM Interconnection LLC

Palantir Technologies Inc.

Petco Animal Supplies Inc.

Platinum Equity LLC

QVC Incorporated

Qurate Retail Group

Securus Technologies Inc.

Sierra Club

Sinclair Broadcast Group, Inc.

Sony Pictures Entertainment Inc.

Southwest Power Pool Inc.

State Bar of Texas

Temple University

Texas Public Policy Foundation

Theranos Inc.

TiVo Corp.

Tribune Media Co.

Turner Broadcasting System Inc.

Twitter Inc.

Valero Energy Corp.

Wayfair LLC

Yelp Inc.

agency didn't offer good reasons to remove it.  
[Read more »](#)

### **NJ Fights Trenk DiPasquale Bid For Water Agency Probe Docs**

The Office of the New Jersey State Comptroller has urged a federal bankruptcy judge to quash a subpoena from Trenk DiPasquale Della Ferra & Sodono PC and two former firm attorneys seeking documents related to the office's investigation into wasteful spending at a defunct Newark water agency, saying such material is confidential. [Read more »](#)

## **HEALTH & LIFE SCIENCES**

### **Pa. Court Axes 2nd Challenge To Medical Marijuana Licenses**

A second challenge over the adequacy of Pennsylvania's process for awarding medical marijuana licenses and for hearing appeals over those awards has been tossed by a state court over a jilted bidder's failure to exhaust administrative remedies before filing suit. [Read more »](#)

## **MEDIA & ENTERTAINMENT**

### **Citing SC Blackout, Cable Lobby Slams Retransmission Rule**

The American Cable Association called on Nexstar Media Group to drop its programming blackout of Myrtle Beach, South Carolina, cable provider Horry Telephone Cooperative over a retransmission dispute, saying Monday that Nexstar is trying to force a massive rate hike on cable subscribers. [Read more »](#)

## **AEROSPACE & DEFENSE**

### **DOD Launches New Central Artificial Intelligence Office**

The U.S. Department of Defense has formally launched a new artificial intelligence center, intended to speed up and harmonize the rollout

ZTE Corp.  
Zulily Inc.  
comScore, Inc.

## **GOVERNMENT AGENCIES**

Army Corps of Engineers  
Bureau of Citizenship and Immigration Services  
Bureau of Indian Affairs  
California Supreme Court  
Cherokee Nation  
Commonwealth of Kentucky  
Consumer Financial Protection Bureau  
Department of Commerce  
European Union  
Executive Office of the President  
Federal Aviation Administration  
Federal Communications Commission  
Federal Emergency Management Agency  
Federal Energy Regulatory Commission  
Federal Judicial Center  
Federal Trade Commission  
Fish and Wildlife Service  
Food and Drug Administration  
Internal Revenue Service  
Los Angeles World Airports  
New Jersey Legislature  
New York State Department of Financial Services  
New York State Senate  
Securities and Exchange Commission  
Three Affiliated Tribes of the Fort Berthold Reservation  
U.S. Army  
U.S. Attorney's Office

of AI capabilities across the military and intelligence community, according to a DOD memo. [Read more »](#)

## TRANSPORTATION & INFRASTRUCTURE

### **FAA Did Shoddy Review Of SoCal Flight Paths, DC Circ. Told**

Culver City, California, and local groups told the D.C. Circuit on Friday that the Federal Aviation Administration flouted its own rules when it failed to assess the noise impacts of newly implemented flight paths for Southern California airports, saying the appellate court shouldn't give it a free pass. [Read more »](#)

## EMPLOYMENT

### Feature

### **The FLSA Turns 80: How Management Wants The Law Updated**

The Fair Labor Standards Act celebrated its 80th birthday last week, and legal experts on both sides of the worker-management divide say the landmark law is showing its age. Here, Law360 looks at ways management-side employment attorneys say they would like to see Congress update the octogenarian statute. (*This is the first article in a two-part series. Check back Thursday to read about how workers' attorneys would revise the FLSA.*) [Read more »](#)

### **Ky. Gov. Urges Judge To Go Further In Pension Bill Ruling**

Kentucky Republican Gov. Matthew Bevin on Friday asked a state judge to alter an order vacating on procedural grounds a bill trimming public employees' pensions so the judge could address the actual merits of the law, which would allow the Kentucky Supreme Court to wholly settle the bill's constitutionality on appeal. [Read more »](#)

## CYBERSECURITY & PRIVACY

U.S. Customs and Border Protection

U.S. Department of Defense

U.S. Department of Energy

U.S. Department of Health and Human Services

U.S. Department of Homeland Security

U.S. Department of Justice

U.S. Department of Labor

U.S. Department of the Interior

U.S. Department of the Treasury

U.S. Environmental Protection Agency

U.S. House of Representatives

U.S. Immigration and Customs Enforcement

U.S. Senate

U.S. Supreme Court

World Trade Organization

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## **Dem Rep. Blasts FCC For Punting Cambridge Analytica Probe**

Rep. Debbie Dingell, D-Mich., continued to push the Federal Communications Commission to probe since-shuttered political consulting firm Cambridge Analytica and investigate if it wrongly bought TV viewing habit information, excoriating the FCC for punting the matter to the Federal Trade Commission, which she also pushed to carry out an investigation [Read more »](#)

## **INTERNATIONAL TRADE**

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### **Feature**

## **Trade Enforcement Springs Eternal: 2018 Midyear Report**

The first half of 2018 has seen the Trump administration make full use of its trade enforcement arsenal as it picks fights with allies and opponents alike, igniting the most dramatic escalation of global trade barriers in many decades. Here, Law360 will walk you through the last six months' worth of developments stemming from the administration's bold enforcement missives. [Read more »](#)

## **TAX**

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### **Analysis**

## **New 1040 Form May Not Reduce Filing Burdens**

A statement released at the same time as a new postcard-size Form 1040 by the U.S. Treasury Department on Friday claims individual income tax filing burdens will be greatly reduced, but some practitioners question whether new schedules required to accompany the form could have the opposite effect. [Read more »](#)

## **Governor Signs 'Airbnb' Tax Bill Into Law In NJ**

New Jersey Gov. Phil Murphy on Sunday signed into law a bill that imposes state sales and use taxes as well as hotel and motel occupancy fees on short-term property rentals made through online marketplaces like Airbnb Inc.'s home-sharing website. [Read more »](#)

### **Virtual Currency Compliance Among 5 New LB&I Campaigns**

The Internal Revenue Service's Large Business and International Division approved five new compliance campaigns Monday, including a new focus on virtual currencies, but the agency said it is not considering a voluntary disclosure program for that area in the future. [Read more »](#)

### **NJ AVOIDS GOV'T SHUTDOWN WITH \$37.4B BUDGET DEAL**

New Jersey Democratic Gov. Phil Murphy signed a \$37.4 billion state budget bill at the 11th hour Sunday, quelling fears of a government shutdown after he reached an agreement with leaders at the State House the day before. [Read more »](#)

## **IMMIGRATION**

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### **Career Immigration Official Picked As Acting Head Of ICE**

The U.S. Department of Homeland Security has elevated a career immigration official to serve as acting director of U.S. Immigration and Customs Enforcement, an agency that stands at the forefront of the Trump administration's ongoing battles on enforcing the nation's immigration laws, DHS announced on Saturday. [Read more »](#)

### **Feds Say Families Can Be Detained Together Under Flores**

The Trump administration said Friday it would comply with a California federal judge's order to stop separating immigrant families caught crossing the border without authorization by detaining parents and children together

throughout immigration proceedings, arguing that the so-called Flores agreement mandating the release of children allowed for it. Read more »

### **Immigration Bill Roundup: Separated Children, Abolish ICE**

Democratic lawmakers have recently introduced legislation that would allow detained parents to call their separated children free of charge, ensure that federal employees are properly trained to care for the children and abolish U.S. Immigration and Customs Enforcement. Read more »

### **DC Judge Says Gov't Must Follow Rules For Asylum-Seekers**

A Washington, D.C., federal judge has ordered the government to follow its own rules about detaining asylum-seekers, saying Monday that, though sometimes raw data amounts to "lies, damn lies, and statistics," the numbers presented by a proposed class of immigrants showing a near-100-percent parole denial rate are irrefutable. Read more »

### **Brazilian Sues Gov't To Reunite With Son Taken At Border**

A Brazilian woman asked a federal Massachusetts court Friday to reunite her with her 9-year-old son after they were separated by immigration officials at the U.S.-Mexico border, arguing that the federal government had broken its own rules and violated the family's constitutional rights. Read more »

## **NATIVE AMERICAN**

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### **DOI Retracts Ruling For Alaska Native Land-Into-Trust Moves**

The office of the U.S. Department of the Interior's solicitor said Friday that it was withdrawing an Obama-era opinion by the same office that the department could take land into trust for Alaska Natives, saying that the ruling was "incomplete and unbalanced"

and that it would take at least a year to reconsider. [Read more »](#)

### **States Fight Feds' Quick Win Bid In Native Adoption Law Suit**

Three states that have mounted a federal court challenge to the Indian Child Welfare Act have urged a judge not to grant the federal government a partial quick win in the suit, saying no administrative record regarding a final rule relating to the law has been entered by the government. [Read more »](#)

## **TELECOMMUNICATIONS**

### **FCC Seeks Input On Securus' Prison Phone Rival Deal**

The Federal Communications Commission announced Monday that it has launched a comment period on prominent prison-phone operator Securus Technologies Inc.'s bid to acquire one of its dominant competitors from TKC Holdings Inc. [Read more »](#)

### **Dems, Orgs Say FCC Lacks Evidence For Kid Vid Rollback**

A group of Senate Democrats and various advocacy groups separately urged the Federal Communications Commission last week to slow a potential rollback of rules covering children's broadcast programming, arguing the agency lacks evidence backing "tentative conclusions" that minimum broadcast requirements are no longer needed. [Read more »](#)

## **WHITE COLLAR**

### **Skelos Cleared To Grill Key Witness Over Alleged Misconduct**

A New York federal judge on Monday greenlighted a multipronged attack by former New York State Senate Majority Leader Dean Skelos and his son Adam on the credibility of former insurance boss and government witness Anthony Bonomo, saying she would

allow the defense to probe claims of misconduct at Bonomo's company. [Read more »](#)

## EXPERT ANALYSIS

### **The EPA's New Biofuels Plan And A Residue Of Uncertainty**

The U.S. Environmental Protection Agency last week issued its long-awaited proposal concerning the next round of annual volume requirements under the Renewable Fuel Standard. While the proposal generally indicates stability and growth for the RFS program, it is conspicuously silent on several issues that could substantially affect biofuels markets, say Joel Beauvais and Steven Croley of Latham & Watkins LLP. [Read more »](#)

### **Massachusetts Patent Litigation Is Speeding Up**

The District of Massachusetts recently issued an updated rule for scheduling and procedures in patent infringement cases, to make the district a more convenient venue. Perhaps the most important change is the newly accelerated litigation timeline, says Aaron Jacobs of Prince Lobel Tye LLP. [Read more »](#)

### **The California Consumer Privacy Act: 3 Early Questions**

It is difficult to overstate the scope of the new California Consumer Privacy Act — it will dramatically change the privacy landscape in the U.S. when it takes effect on Jan. 1, 2020. The act also contains ambiguities that are likely to sow confusion and litigation, say attorneys with Munger Tolles & Olson LLP. [Read more »](#)

#### **Opinion**

### **A Trump Supreme Court Nominee Can Be Defeated**

The Senate Republican leadership and the Trump administration are racing to fill Justice Anthony Kennedy's spot on the U.S. Supreme

Court. Does opposition to their plans have any chance of success? My answer is yes, because the stakes are so high, people are so engaged, and the records of those short-listed are so deeply troubling, says Nan Aron, president of Alliance for Justice. [Read more »](#)

### **Considering The Uncertain Future Of The EB-5 Program**

After multiple extensions, the EB-5 visa program is set to expire on Sept. 30. The uncertainty of the program's future and proposed changes to minimum threshold investments have led developers to increase their fundraising efforts prior to the deadline, and they may cut back on use of EB-5 funds going forward, say Bruce Meyerson and David Coombs of Goulston & Storrs PC. [Read more »](#)

### **How Sports Bet Ruling Affects Players' Collective Bargaining**

Following the U.S. Supreme Court's decision in *Murphy v. NCAA*, player associations must not only monitor how state legislatures and Congress react to the ruling, but also proactively engage with both federal and state legislatures. Failure to do so will likely leave players in an unfavorable position vis-a-vis their respective leagues, say attorneys with Dechert LLP. [Read more »](#)

## **LEGAL INDUSTRY**

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### **Interview**

### **Jackson Lewis' Newly Elected Co-Chairs Talk Growth**

Newly elected leaders of Jackson Lewis PC say they have big plans for the direction of the law firm, including imminently appointing a new chief operating officer from a professional services firm, expanding in several states and adding to the firm's capabilities in health care and employee benefits law. Here, Law360 chats with newly elected co-chairs William

Anthony and Kevin Lauri about the future of the firm. [Read more »](#)

### **WilmerHale, Perkins Coie Late Entrants In Pay Raise Match**

Perkins Coie LLP, WilmerHale, Olshan Frome Wolosky LLP and Choate Hall & Stewart LLP have joined the cavalcade of law firms announcing changes to their associate compensation structure, according to internal memos made public Monday. [Read more »](#)

### **Law Firm Mergers On Pace To Equal Record In 2018**

U.S.-based law firms are on pace for another record-setting year of tie-ups, according to a report released Monday that indicates the high-water mark of 102 mergers, set in 2017, could be overtaken before year's end. [Read more »](#)

### **Dinsmore & Shohl Beef Up Parental Leave Policy**

Dinsmore & Shohl LLP has beefed up its parental leave policy, allowing female attorneys to take 18 weeks of paid leave in the year after giving birth and granting leave time to adoptive parents and the partners of new mothers as well, the firm announced Monday. [Read more »](#)

### **Covington, Microsoft Attys Say AI Trust Key To Use In Law**

A Covington & Burling LLP partner and a Microsoft in-house attorney speaking at a conference about artificial intelligence warned Friday that as the technology is applied to legal problems, AI systems have faced questions about baked-in biases and a lack of transparency as to how they reach decisions. [Read more »](#)

### **Yelp Needn't Delete Defamatory Atty Reviews: Calif. Justices**

A divided California Supreme Court on Monday reversed a lower court's order that Yelp take down defamatory reviews of a personal injury

attorney posted by a former client, saying the consumer review website is protected by a federal law shielding publishers of third-party content. [Read more »](#)

## **Latham Scores Win In Suit Over Fraudulent Job Site**

A Virginia federal judge signed off on a magistrate judge's recommendation and granted Latham & Watkins LLP's default judgment bid in a suit against a website it said purports to hire people to work at Latham from home, after the owners of the website failed to respond to the complaint. [Read more »](#)

**Interview**

## **15 Minutes With Qurate Retail Group? 9s General Counsel**

Larry Hayes is not only the general counsel of Qurate Retail Group, but also a college football referee who works as a center judge in the Atlantic Coast Conference. Here, he discusses the skills vital for a successful general counsel, the challenges his business faces in 2018 and the worry that keeps him up at night. [Read more »](#)

**Feature**

## **The Top In-House Hires Of June**

June not only brought the first days of summer, but also a string of notable legal hires that included new general counsel and chief legal officer appointments at Adobe Systems Inc., Consumer Reports, Lionsgate, the University of Mississippi and the Association of Corporate Counsel, as well as new deputy general counsel at ProPublica and startup Bird. [Read more »](#)

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**From:** MWH Law Group  
**Sent:** Tuesday, July 3, 2018 12:16 PM  
**To:** Rep48  
**Subject:** United States Supreme Court Strikes Down on Public-Sector Unions



## Landmark Labor Decision by United States Supreme Court

By Julie T. Bittner - Partner, West De Moines, IA

In this week's landmark decision, the United States Supreme Court ruled that government workers who choose not to join a union cannot be charged for the cost of collective bargaining. Justice Samuel Alito wrote the majority opinion and the court's conservative justices joined. [View case here.](#)

In *Janus v. American Federation of State, County, and Municipal Employees, Council 31, et al.*, the Petitioner Mark Janus was an Illinois state employee whose unit is represented by a public-sector union. Mr. Janus refused to join the union because he opposed many of the union's decisions, including those taken in collective bargaining. Employees who declined to join the

union were not assessed full union dues but instead were required to pay an “agency fee” which was a percentage of the union dues (here 78.06% of full union dues).

The employees were not asked and were not required to consent before the fees were deducted. In Illinois, the nonmembers were told that the agency fee covered lobbying, social and recreational activities, advertising, membership meetings and conventions and litigation, as well as other unspecified services that “may ultimately insure to the benefit of the members of the local bargaining unit.” Mr. Janus sued challenging the constitutionality of agency fees. In his case, the fees amounted to about \$535/year.

This week, the Supreme Court held that the State’s extraction of agency fees from nonconsenting public-sector employees violates the First Amendment. In its decision, the Court overturned a 41-year-old decision, *Abood v. Detroit Bd. Of Ed.*, 431 U.S. 209 (1977) and overturns laws in 22 states.

In addition to the historic argument in *Abood* regarding ‘free riders,’ Respondents argued that mandatory agency fees were necessary for unions to bargain with an adequately funded budget and to improve the efficiency of the work force. Respondents argued agency fees are needed to prevent nonmembers from enjoying the benefit of union representation without shouldering the costs (free-riding). The Supreme Court rejected each argument in turn, finding that the government’s proffered interests did not justify the heavy burden of agency fees on nonmembers’ First Amendment interests.

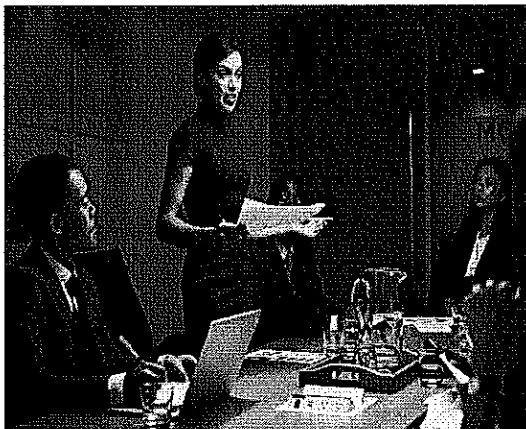
As a result, states and public-sector unions may no longer extract agency fees from nonconsenting employees. The Court held the First Amendment is violated when money is taken from nonconsenting employees for a public-sector union; employees must choose to support the union before anything is taken from them. Public-sector unions are still free to organize and represent their members, but cannot compel non-members to support their activities.

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## Diversity and Inclusion



### Women's Issues in Legal Roles

More women are now graduating from law school than ever before and many are facing adversity with in-house legal departments. Here are a few professional tips to deal with challenges head-on.

[Read More >](#)

## Professional Development



### The Art of Negotiation

As a successful lawyer, the essential ingredient for career advancement is being able to negotiate. Choosing what negotiation style to employ can be a determinative factor in winning cases and thriving in business.

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**From:** MWH Law Group  
**Sent:** Thursday, July 5, 2018 1:09 PM  
**To:** Rep48  
**Subject:** United States Supreme Court Ruling is Perceived as a Setback for Public-Sector Unions.



## Landmark Labor Decision by United States Supreme Court

By Julie T. Bittner - Partner, West Des Moines, IA

In this week's landmark decision, the United States Supreme Court ruled that government workers who choose not to join a union cannot be charged for the cost of collective bargaining. Justice Samuel Alito wrote the majority opinion and the court's conservative justices joined. [View case here.](#)

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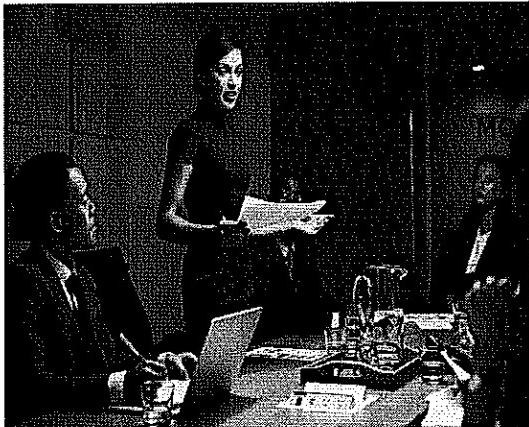
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**From:** Steven Meeks  
**Sent:** Monday, July 9, 2018 10:49 AM  
**To:** statesenator29@gmail.com; Rep48  
**Subject:** FW: Medical Marijuana JCARR Link  
**Attachments:** Med MJ FAQ.PDF; MedMarijuanaImpact\_BWC.PDF

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Do you have any additional comments or thoughts?  
Thank you

**Steven M. Meeks**  
**Chief Operating Officer**  
**Canton Regional Chamber of Commerce**  
222 Market Ave N, Canton, OH 44702  
Ph (330) 458-2088  
[www.cantonchamber.org](http://www.cantonchamber.org)



---

**From:** Tim Maloney [mailto:[TMaloney@cantonchairrental.com](mailto:TMaloney@cantonchairrental.com)]  
**Sent:** Saturday, June 30, 2018 9:39 AM  
**To:** Holly Maloney <[HollyM@cantonchairrental.com](mailto:HollyM@cantonchairrental.com)>; 'Steve Meeks'  
<[stevenm@cantonchamber.org](mailto:stevenm@cantonchamber.org)>  
**Subject:** FW: Medical Marijuana JCARR Link

Steven and Holly,

Per my email way down on the bottom of this email thread, I was worried about some changes in regulations concerning medical marijuana. I checked with the Ohio Chamber and the rule I was concerned about pertains to state of Ohio employees and not private workers.

Good news.

See the chamber's response and corresponding attachments.

Tim

**Tim Maloney Sr., CERP**  
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<http://www.cantonchairrental.com>



---

**From:** Kevin Boehner <[KBoehner@ohiochamber.com](mailto:KBoehner@ohiochamber.com)>  
**Sent:** Friday, June 29, 2018 3:18 PM  
**To:** Tim Maloney <[TMaloney@cantonchairrental.com](mailto:TMaloney@cantonchairrental.com)>  
**Subject:** FW: Medical Marijuana JCARR Link

Tim,

My colleague here at the Ohio Chamber was able to speak with the Department of Administrative Services regarding your inquiry about medical marijuana. Please see the below correspondence as well as the attachments. Should you have any more questions, please let me know.

Thanks,

Kevin

---

**From:** Don Boyd  
**Sent:** Friday, June 29, 2018 3:16 PM  
**To:** Kevin Boehner <[KBoehner@ohiochamber.com](mailto:KBoehner@ohiochamber.com)>  
**Subject:** Re: Medical Marijuana JCARR Link

Kevin,

I spoke with Mariah Halleck, the legislative liaison at the Department of Administrative Services (DAS), the agency promulgating the rule in question. This rule will only apply to state agency employees. DAS has made the

determination that, for state agency employees, it will treat a proper medical marijuana recommendation the same as any other prescription drug, which, based on the provisions we advocated for in HB 523 (131st), is the prerogative of each individual business to decide. DAS is providing two exceptions to this policy. First, if the state agency employee requires DOT certification, medical marijuana will be prohibited. Second, if the state agency employee is required to carry a firearm as part of their job, medical marijuana will be prohibited. I will stress that this only applies to State of Ohio, DAS regulated, employees.

Private employers will still be able to determine for themselves how they want to treat medical marijuana. If an employer wants to prohibit use and maintain a zero-tolerance policy, then, based on the law, the employer is free to do so. When we worked on the legislation, we wanted to leave the choice up to the employer on how to treat it. Underneath my signature block below, I've inserted an email with additional information that I sent to our Labor and Employment Committee earlier this year and also attached a few useful one-pagers we have created on the topic. I would be happy to discuss the issue with Tim and his team if he has any further questions.

Best,  
Don



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**From:** Don Boyd  
**Sent:** Thursday, March 22, 2018 4:52 PM  
**To:** Don Boyd  
**Subject:** Ohio Chamber of Commerce: Medical Marijuana & Opioid Toolkit Information

Dear Committee Member,

At our last committee meeting, we discussed the upcoming deadline for Ohio's medical marijuana program to be operational, September 8<sup>th</sup>, 2018, and what this means for employers. Following up on that conversation, I am sharing some resources we put together regarding Ohio's medical marijuana law and tools for employers to use. Though these are a little dated, the information is still good. Attached is a one-page FAQ that we put together to help educate employers and employees on the law and another from the BWC discussing how they will handle medical marijuana. Also, below is a link to a blog post on the law that has information and further links to a three-part series we did on the law that takes a deep dive into many of the details. At the bottom of the email are key points for businesses.

Medical Marijuana Blog Post

Lastly, the Ohio Chamber of Commerce rolled out our Opioid Toolkit to provide a FREE resource to employers last week. This received national attention resulting in the Secretary of the U.S. Department of Labor, Alexander Acosta, making a visit to the Ohio Chamber to discuss the opioid crisis with a number of our members during a roundtable. Many Ohio employers were not sure how to address the issue or what to do about the opioid epidemic in their own workplaces and communities. The Opioid Toolkit arms employers with information to better prepare, prevent, and respond to drug problems in the workplace. It also contains information for employees and the public. Please be sure to check out this FREE resource and share it with others.

Opioid Toolkit

BLOG- Help for Employers—An Opioid Toolkit

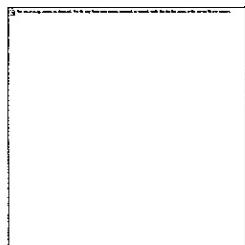
BLOG- Employer Opioid Toolkit Receives National Attention.

Thank you for your continued participation!

**Key Medical Marijuana Points for Businesses:**

- Employers are not required to permit or accommodate an employee's use, possession, or distribution of medical marijuana.
- Employers can discharge, refuse to hire, discipline or take adverse employment actions against an individual due to the individual's use of medical marijuana.
- Employers can still establish and enforce drug testing, drug-free workplace, or zero-tolerance policies.
- Employees who are discharged due to medical marijuana use are not eligible for unemployment compensation benefits if the use was in violation of an employer's drug-free workplace policy, zero-tolerance policy, or other formal program or policy regulating the use of medical marijuana.
- Employees who are injured while under the influence of marijuana, whether recommended by a physician or not, will not be eligible for workers' compensation benefits if being under the influence was the proximate cause of the injury.
- Federal restrictions on employment, including Department of Transportation regulations, remain unchanged and are not impacted.
- Employees are not permitted to sue an employer for discharging, disciplining, discriminating, retaliating, refusing to hire or otherwise taking an adverse employment action against a person due to medical marijuana use.

Best,  
Don



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**From:** Kevin Boehner  
**Sent:** Wednesday, June 20, 2018 11:19 AM  
**To:** Don Boyd  
**Subject:** FW: Medical Marijuana JCARR Link

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**From:** Tim Maloney <[TMaloney@cantonchairrental.com](mailto:TMaloney@cantonchairrental.com)>  
**Sent:** Tuesday, June 19, 2018 11:04 AM  
**To:** Kevin Boehner <[KBoehner@ohiochamber.com](mailto:KBoehner@ohiochamber.com)>  
**Cc:** Holly Maloney <[HollyM@cantonchairrental.com](mailto:HollyM@cantonchairrental.com)>  
**Subject:** Medical Marijuana JCARR Link

Kevin,

Per our discussion today, please see the following  
link: [http://www.registerofohio.state.oh.us/pdfs/123/1/76/123\\$1-76-10\\_PH\\_OF\\_A\\_RU\\_20180601\\_1302.pdf](http://www.registerofohio.state.oh.us/pdfs/123/1/76/123$1-76-10_PH_OF_A_RU_20180601_1302.pdf)

See second page of the pdf- section (G.) Employees shall be given the opportunity as required by applicable collective bargaining agreements or, in the absence of such agreements, as stipulated by the director of the department of administrative services to offer an explanation or submit medical documentation of legally prescribed medications, legally recommended medical marijuana, or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the medical review officer in his/ her determination of the validity of a positive confirmatory test and shall be released to the employer only to explain a test result.

I was of the belief that marijuana was not going to be an "accepted" drug, even after the passage of the "medical marijuana" legislation.

Does your expert at the Ohio Chamber have any comment?

Thanks.

Tim  
cc. Holly Maloney Canton Chair Rental

**Tim Maloney Sr., CERP**  
Canton Chair Rental  
*President*  
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# OHIO CHAMBER of COMMERCE

## MEDICAL MARIJUANA IN OHIO: BUSINESS & EMPLOYEE FREQUENTLY ASKED QUESTIONS

Earlier this year, Ohio became the 25th state to pass a medical marijuana law. Many of the regulations for Ohio's medical marijuana program are yet to be created. However, these are the initial questions many employees and businesses have regarding the new law.

• **What happens on September 8th, 2016, the bill's effective date?**

In short, not much. Rules to oversee the program will be made by government agencies. The actual process for implementation of the program is two years.

• **When will individuals be able to begin receiving medical marijuana recommendations?**

There is not currently a timeframe. The medical board is beginning to create rules governing this process. Once again, it could take up to two years before the program is fully operational.

• **Can a business refuse to hire someone due to their use of medical marijuana?**

Yes, employers can still refuse to hire a potential employee due to use of medical marijuana or for failing a drug test.

• **Can a business terminate an employee for using medical marijuana?**

Yes, employers can terminate an employee for using medical marijuana or failing a drug test even if the employee is a registered medical marijuana patient.

• **My employer has a zero-tolerance or drug testing policy, will this still be valid under the new law?**

Yes, the medical marijuana law explicitly allows employers to continue enforcing zero-tolerance and drug-testing policies even in regards to medical marijuana.

• **I have been recommended medical marijuana, does my employer have to allow me to use it?**

No, employers are not required to permit or accommodate the use of medical marijuana.

• **I was terminated due to my use of medical marijuana, will I be eligible for unemployment compensation benefits?**

No, if an employee was terminated, and there is a company policy prohibiting the use of medical marijuana, it will be considered a "just-cause termination" and he or she will not be eligible for unemployment compensation benefits.

For more information, please visit [www.allforohio.com](http://www.allforohio.com) and search "medical marijuana" or [www.medicalmarijuana.ohio.gov](http://www.medicalmarijuana.ohio.gov).

# *Medical Marijuana and its IMPACT ON BWC*

## **What does OHIO'S medical marijuana LAW SAY?**

**House Bill 523**, effective Sept. 8, 2016, legalizes medical marijuana in Ohio for certain medical conditions, including pain that is either chronic and severe or intractable, PTSD, and traumatic brain injuries. At this time, the only legal forms of medical marijuana will be edibles, oils, patches, plant material and tinctures. Vaporization is permitted. It cannot be smoked or combusted. Home growth is prohibited.

The Ohio Department of Commerce is tasked with regulating the licensure of medical marijuana cultivators and processors, as well as the laboratories that test medical marijuana. The state of Ohio Board of Pharmacy will license retail dispensaries and register patients and their caregivers. Additionally, the State Medical Board of Ohio will regulate physicians' requirements and procedures for applying for and maintaining certificates to recommend medical marijuana and maintain the list of conditions for which medical marijuana can be recommended.

## **What is the IMPACT of the new law ON BWC?**

The impact of the new law on BWC and its programs is limited. It does not adversely affect the Drug-free Safety Program, will not require BWC to pay for patient access to marijuana, and expressly states that an employee under the influence of marijuana is not covered by workers' compensation.

### **Specifically:**

- ① Nothing in the law requires an employer to accommodate an employee's use of medical marijuana;
- ② The law does NOT prohibit an employer from refusing to hire, discharging, or taking an adverse employment action because of a person's use of medical marijuana;
- ③ The law specifies that marijuana is covered under "rebuttable presumption." In general, this means that an employee whose injury was the result of being intoxicated or under the influence of marijuana is not eligible for workers' compensation. This is the case regardless of whether the marijuana use is recommended by a physician;
- ④ While the law does not specifically address reimbursement for medical marijuana recommended for injured workers, Ohio law already has rules and statutes in place that limit what medications are reimbursable by BWC.
  - Administrative code provides that drugs covered by BWC are limited to those that are approved by the United States Food and Drug Administration. Marijuana has not been approved by the FDA and remains a Schedule I illegal drug under federal law.
  - BWC-funded prescriptions must be dispensed by a registered pharmacist from an enrolled provider. Medical marijuana will be dispensed from retail marijuana dispensaries, not from enrolled pharmacies.
  - BWC only reimburses drugs that are on its pharmaceutical formulary, which is a complete list of medications approved for reimbursement by BWC. Drugs not on the list are not eligible for reimbursement, and under BWC's current rules, it cannot be included in the formulary, nor is it otherwise eligible for reimbursement.

## **What can EMPLOYERS DO?**

The best way employers can protect their workers and themselves is to establish a drug-free workplace, or, if they already have one, to review and update it if necessary. This is important because certain sections of the new law reference the use of medical marijuana in violation of an employer's drug-free workplace policy, zero-tolerance policy or other formal program or policy regulating the use of medical marijuana. For what this means to your specific workplace, consult your human resources or legal department.

**From:** NCSL TODAY  
**Sent:** Monday, July 9, 2018 4:34 PM  
**To:** Rep48  
**Subject:** Why 'orphan' oil and gas wells are a growing problem for states

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## TOP NEWS July 9, 2018

### Why 'orphan' oil and gas wells are a growing problem for states

*Stateline*

Unplugged wells can leak explosive gas into neighborhoods and leach toxins into groundwater.

### At state level, GOP renews push for 'supermajority' for tax hikes

*The Washington Post*

Florida Republicans are pursuing a plan to make it harder for lawmakers to raise taxes in the state, adding new hurdles for Democrats hoping to enact bold social programs such as "Medicare for all" and more robust education spending. **NCSL research cited.**

### Insurers warn of rising premiums after Trump axes Obamacare payments again

*Reuters*



Health insurers warned that a move by the Trump administration on Saturday to temporarily suspend a program that was set to pay out \$10.4 billion to insurers for covering high-risk individuals last year could drive up premium costs and create marketplace uncertainty.

[NCSL resources on health insurance premiums and increases.](#)

## **North Dakota measure would ban noncitizen voting**

*Associated Press*

Backers of a measure to change the North Dakota Constitution to explicitly bar non-U.S. citizens from voting say they have gathered enough signatures to get it on the November ballot. [NCSL research cited.](#)

## **Delaware lawmakers approve bill to prohibit pharmacist 'gag clauses'**

*Delaware Public Media*

Pharmacy Benefits Managers (PBMs), third-party administrators of prescription drug programs for health insurance plans, sometimes forbid pharmacists from telling customers about cheaper therapeutic alternatives, or disclosing when a drug might be cheaper when paid for out-of-pocket, rather than through insurance. A [NCSL data cited.](#) [NCSL resources on 'gag clauses'.](#)

## **Janus ruling is a blow to public unions - especially bad for black women**

*Governing*

The Supreme Court's decision could weaken unions'

## **Webinar Wednesday: Revitalizing civics education in U.S. schools**

This webinar will explore the general state of civics knowledge and education in the United States and highlight some of the work state legislators are undertaking to address the civics education and engagement in their states.



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collective bargaining power, which has historically benefited women of color more than most.

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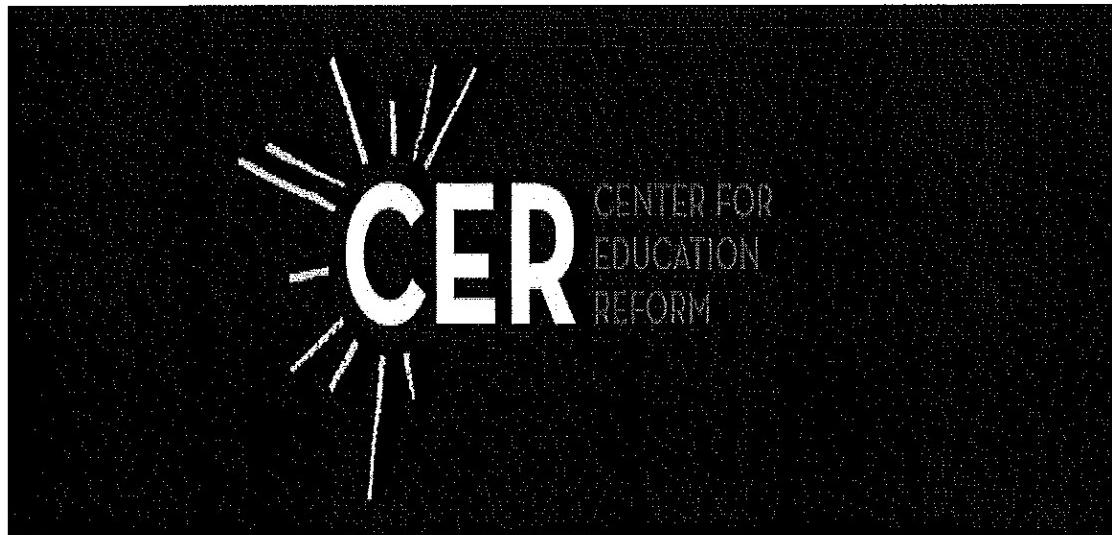


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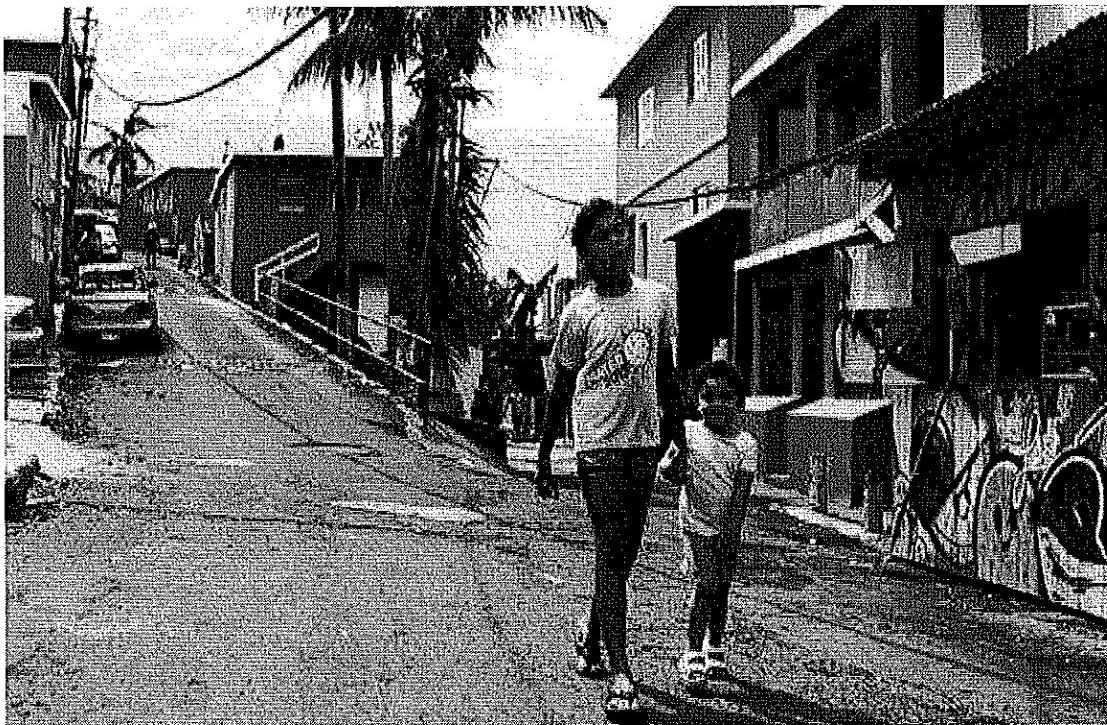
A weekly report on education news and commentary you won't find anywhere else — from the nation's leading voice on education innovation and opportunity.

**A NEW HOPE FOR RELIGIOUS SCHOOLS' FREEDOM?** The President's nominee to fill the vacancy that Supreme Court Justice Anthony Kennedy will create is Brett Kavanaugh, whose long history of rulings and opinions on education issues may allow for progress and real change for religious schools and school equity: *Does A Justice Kavanaugh Mean That Blaine Amendments Are History?*

**A SETBACK IN PUERTO RICO.** A frustrating turn of events in Puerto Rico where the hopes and plans to increase educational opportunities and innovations are being held up a judge's ruling that private school scholarships

violate Puerto Rico's Constitution and that only the University of Puerto Rico and Puerto Rico's municipalities can operate "*alianza*" (i.e. charter) schools.

Sadly, this is another case of putting children last when it comes to meeting their educational needs and, with hope, will only be a temporary set-back in delivering Gov. Rosselló's hugely needed, and hugely promising reforms. The good news is that we've seen this movie before, and the flawed decisions of courts from Washington state to Florida are usually based on education powers in constitutions not legislative powers, which in most Constitutions take precedence. [Check out this review](#), for example, from former U.S. Solicitor General Paul Clement, about a similar issue claimed but not litigated in Kentucky. We'll keep you posted.



**NEA: THE "NOT EDUCATION ASSOCIATION."** Somehow the NEA thought it appropriate to dedicate nearly two-thirds of the resolutions at its annual conference last week to everything BUT education? [What are some of the NEA's priority issues?](#) Here's a sample. Ensuring that Banana Republic doesn't

advertise with the union. Creating a toolkit to press for moratoria on charter school authorizations by bodies other than locally elected school boards. Advocating for lower interest rates and affordable housing programs for educators. And planning at least one action to shut down an immigration detention center, a Customs and Border Patrol office, or an Immigration and Customs Enforcement office (and recruiting at least 500 educators to participate in the action who are willing to be arrested and not bailed out of jail for a week!).

**AFT ALSO OUT OF TOUCH.** As the AFT gears up for its rollicking annual convention and demagoguery fest we thought we'd brief you on the issues they'd be debating this year...that is until we looked at the list of a whopping 91 resolutions from 13 committees that are more appropriate to a meeting of the U.N. General Assembly than they are to addressing the educational needs of America's children and families. To be fair, they do have an "Educational Issues Committee" but things go sideways fast when we get to the committees on Healthcare, Human Rights, International Relations, Labor and the Economy, Political Action ("Resolution No. 53 'Rev It Up:' Register, Educate, Vote!") and Organizing and Collective Bargaining. Suffice it to say they will be discussing a lot of things, most of which have little or nothing to do with educating children. If you are so inclined, you can read every word of every resolution [here](#).

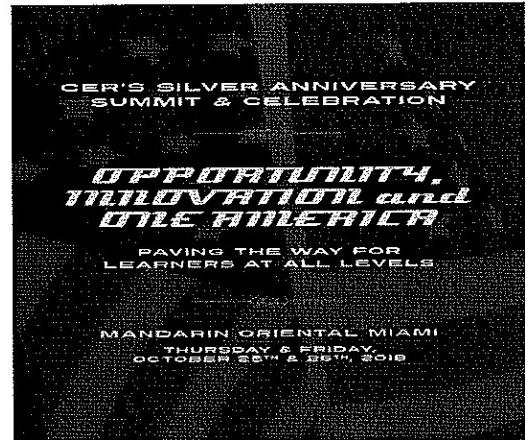
**NOTE TO UNIONS:** You're supposed to be looking for ways to improve your standing after Janus not get farther away from the mission upon which you were founded.

**HEARING IT DIRECTLY FROM MARK JANUS.** Along with many of our most respected colleagues, we've been glued to the Janus v. AFSCME litigation proceedings since the beginning. We've [covered](#), [interviewed](#) and reported on the subject. But nothing compares to hearing it from the horse's mouth. [Here's](#) Mark Janus explaining his "why" after the historic decision.

**TO NBC: NOT TO SAY, 'WE TOLD YOU SO" BUT...** The Grade, by Alexander Russo, offers up a great article over the irresponsibly story alleging charter schools are creating "white flight" from traditional public schools. The contention is absurd, and we said so, but the Grade goes even further. A very brief synopsis of its critique: "...unfortunately, the [NBC/Hechinger] piece fails badly at its larger attempt, which is to assert that this kind of charter school is a significant problem nationally. Despite all efforts to make it seem otherwise, the data presented in the story do not support the claim that segregated white charters are a big problem." Read the full article here.

**COMPETITION.** Pennsylvania's Bensalem school district hired a consultant to tell them why so many families were choosing charter schools over district schools. The consultant’s explanation: with charter schools as an option for families, districts must compete for students, which means they have to improve in areas where they are lacking – be that in performance or programs or in working with parents. "Of course," the article concludes correctly, "competition is what the charter school law was supposed to produce — because competition drives excellence.= 2

**THE ROAD TO INNOVATION IS PAVED WITH SILVER...** This week we are pleased to announce the addition of Arizona State University as a partner in CER’s Silver Anniversary Summit. We’re grateful for the pathbreaking leadership of ASU and its visionary president Michael Crow in their myriad endeavors. Start your engines and make your way to Miami on October 26th! Registration opens this week!



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### Missed Heartland's Emerging Issues Forum in Orlando? Watch It Online!

On December 15, The Heartland Institute hosted its 2016 Winter Emerging Issues Forum (EIF). More than 120 state elected officials and policy experts from 23 states attended this magical EIF in Orlando, Florida.

Tennessee state Rep. Mike Sparks (R-Rutherford) praised Heartland's winter EIF event, stating, "As a state legislator, you may often feel alone on a few issues, but having The Heartland Institute as a resource is invaluable."

#### [YouTube channel.](#)

The education panel featured Tennessee state Rep. John J. DeBerry Jr. (R-Shelby County), Jamie Gass, the Pioneer Institute's director of the Center for School Reform, and Lisa Snell, the Reason Foundation's director of education and child welfare. The panelists discussed how education outcomes in America continue to lag globally, the debate over Common Core State Standards, and educational choice options such as education savings accounts and charter schools. The panel also analyzed the roadblocks currently facing lawmakers who are working to transform education. [Watch a video of the education panel here.](#)

The health care panel featured Beacon Center of Tennessee Director of Policy Lindsay Boyd, clinical endocrinologist Dr. Richard O. Dolinar, and Sal Nuzzo, the James Madison Institute's policy director. The panelists discussed how states could expand competition and reduce the cost of health care (even with the Affordable Care Act in place). Solutions discussed included using telemedicine, rolling back certificate of need laws, and embracing direct primary care. [Watch a video of the health care panel here.](#)

The energy and environment panel featured Maine state Rep. Beth A. O'Connor (R-Berwick), Amy Oliver Cooke, the Independence Institute's vice president and the director of the energy policy center, and Spark of Freedom Foundation President James Taylor. The panelists

discussed how America has become a leader in energy production despite President Barack Obama's efforts to discourage the use of traditional energy sources, such as coal, natural gas, and oil. This panel also discussed the rise of hydraulic fracturing, the demise of renewable power mandates, and pro-environment, pro-energy, and pro-jobs solutions to America's energy and environment problems. [Watch a video of the energy and environment panel here.](#)

The budget and tax panel featured West Virginia state Del. John Overington (R-Berkeley), Beacon Center of Tennessee Director of Policy Lindsay Boyd, and State Budget Solutions President Bob Williams. The panelists discussed ways states are seeking to create a better business climate to attract jobs and businesses to their states. The panelists also discussed right-to-work laws, tax reform, and reforming public pension systems. [Watch a video of the budget and tax panel here.](#)

Stay tuned as Heartland prepares to host its 2017 Emerging Issues Forum!

## WHAT WE'RE WORKING ON

### Budget & Tax

#### [Research & Commentary: Dramatic Gas Tax Hike Won't Help Alaska Maintain Its Roads](#)

Alaska Gov. Bill Walker (I) recently introduced a proposal that would hike the state's gas tax rate as part of his 2018 budget plan. The tax would quadruple from 8 cents per gallon to 24 cents per gallon on July 1, 2018. In this *Research & Commentary*, Matthew Glans argues Alaska legislators should explore more modern and efficient ways to fund road construction and traffic infrastructure, such as privatizing roads and establishing toll systems. [Read more](#)



### Education

#### [Roadmap for the 21st Century: Education Choice](#)

This paper, authored by the Roadmap for the 21st Century Working Group on Education, describes how education choice and competition improve educational outcomes for both those students who take advantage of choice opportunities as well as those who remain in traditional public schools. The authors also outline how education choice would improve economic prosperity at the national and state levels. According to the authors, "If all American students and their parents were free to choose the school they believed would work best for them, [educational achievement gaps] could be closed. Nationwide, that would mean an increase in U.S. GDP of up to 17% to 30%, or \$3.1 trillion to \$5.2 trillion over 25 years, given the current level of U.S. GDP." [Read more](#)

### Energy & Environment

#### [Utah Counties Sue Federal Government Over Coal Lease](#)

### Moratorium

In this article for *Environment & Climate News*, reporter Kenneth Artz writes about a lawsuit filed against the U.S. Department of the Interior (DOI) and the Bureau of Land Management by Utah's Kane and Garfield Counties, which argues they and other rural communities around Utah will be economically devastated by the loss of hundreds of jobs and the closing of crucial mining sites if the Obama administration's moratorium on new coal leases on federal lands continues. The Obama administration, Artz notes, issued the moratorium in January 2015 as part of its review and overhaul of the coal-leasing program managed by DOI. The Obama administration says the moratorium was necessary due to concerns related to the theory man is causing climate change and because the administration wanted to examine whether taxpayers are receiving a fair return on the leases. However, now that Donald Trump is entering the White House, the dispute could be short-lived. [Read more](#)

### **Health Care**

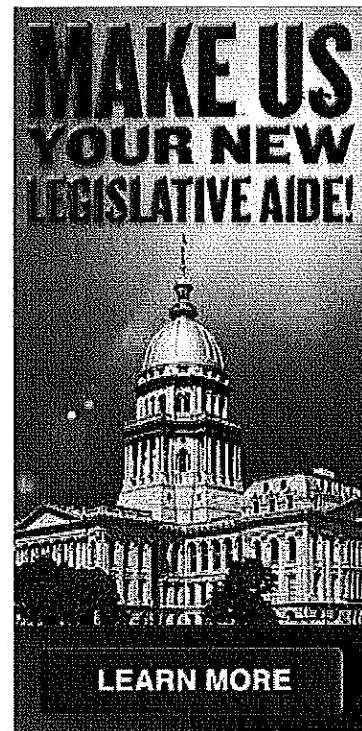
#### The Case for Licensing Dental Therapists in North Dakota

A joint publication of The Heartland Institute and Texas Public Policy Foundation, this *Policy Brief* makes a case for the licensing of dental therapists in North Dakota to improve access to basic and preventative oral care. The *Policy Brief* was authored by Michael Hamilton and Bette Grande, both research fellows at The Heartland Institute, and John Davidson, a senior fellow at the Texas Public Policy Foundation. Grande served as a North Dakota state representative from 1996 to 2014, representing the 41st district. The authors urge North Dakota to follow the example set in Maine, Minnesota, and Vermont, which have proven licensing dental therapists is a win-win for residents and dentistry professionals. The report includes 64 footnotes citing research concerning the benefits of dental therapy. [Read more](#)

### **From Our Free-Market Friends**

#### The Thomas Jefferson Institute Releases New Hospital Study

The Thomas Jefferson Institute recently released its annual analysis of Virginia hospitals' financial wellbeing, titled *Virginia's Hospitals: Doing Well in a Sluggish Economy*. The report confirms the hospital industry in Virginia has continued to enjoy solid earnings, and the authors say the industry's financial health remains strong. This year's study, authored by President Michael W. Thompson, shows hospitals earned a profit of \$1.89 billion in 2015, slightly less than the \$1.9 billion in 2014 - a difference of only six-one-hundredths of one percent. Additionally, the net worth of hospitals increased by 6.6 percent, or about \$1.1 billion. Thompson found in the



### **POLICY NEWSPAPER**



The January 2017 issue of *Budget & Tax News* reports on the election of Donald Trump, Republicans' continued control of both houses of Congress ... and what it all might mean for downsizing the federal government. Genevieve Wood, a senior fellow at The Heritage Foundation, gave taxpayers reason for hope: "I think you can expect to see

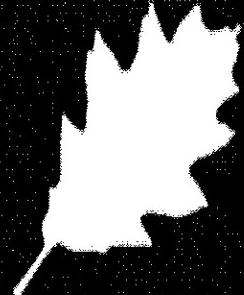
report, “Over the past four years – from 2012 through 2015 – the number of hospitals running in the red has decreased by 35% – from 42 in 2012 to 27 in 2015.” [Read more](#)

bold reforms, and by that, I mean a real shrinking back and pulling back of the federal government’s power when it comes to taxes, regulations, [and] telling people how to live their everyday lives.”

#### Health Care News

#### Environment & Climate News

#### School Reform News



## Heartland Institute

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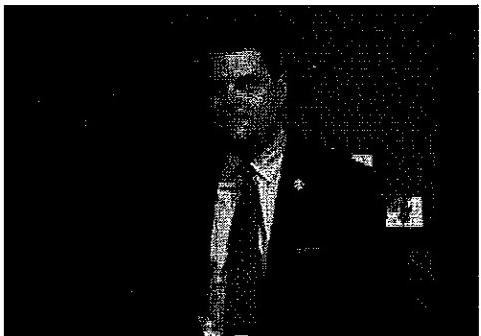
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## **How House Conservatives Plan to Revive Obamacare Repeal, and Why It Could Work**

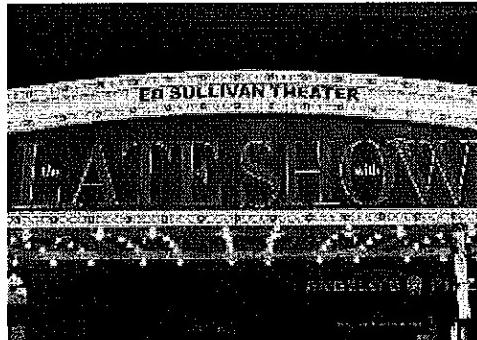
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## IRS Rehires 213 Employees Ousted for Falsifying Documents, Avoiding Taxes, Other Offenses

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## WEEKLY WRAPUP



### Must-See Moments of the Week: Late Night Joins Mainstream Media in Attacking Trump

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## The Failures of the Educational Safety Net

One of the most important problems facing the education system in many states is that the current education safety net leaves most at-risk youth with a subpar education. Standard safety net elements traditionally include continuation schools, opportunity schools, community day schools, juvenile detention centers, and blended online-learning programs. Students in these alternative education settings are more likely to be minorities and live in low-income households than students in traditional classroom settings.

In a new Heartland *Policy Brief* titled "[Strengthening America's Educational Safety Net](#)," Carl Brodt and Alan Bonsteel present some important and grim facts about the current state of the nation's education system, including that 20 percent of public school students fail to graduate high school on time and 10 percent of high school students enroll in a corrective or supplemental program.

Brodt and Bonsteel, the treasurer and president of California Parents for Educational Choice, respectively, primarily drew their assessment of alternative education and their recommendations from extensive research on the safety nets in California. Two-thirds of California students enrolled in a safety net are in that situation because they have fallen far behind their peers in attaining the required academic credits. The second-most-cited reason for being enrolled in a safety net program (16 percent) is extreme behavioral problems.

Of the students enrolled in these safety net programs, only about 25 percent earn a high school degree. This low graduation rate is especially lamentable given the pitiful academic requirements these students must meet. For example, California requires continuation schools to offer only 15 hours of classes per week, and there are often no school or district academic standards for course credits.

"Emphasis in the safety net tends to be on process—attendance, punctuality, and productivity—and not academic content and achievement," the authors wrote, arguing that these misplaced priorities are partly to blame for many of the system's failings.

Brodt and Bonsteel recommend several short-term and long-term actions should be adopted by state legislators across the country to create educational safety nets that are successful:

1. Standardize what constitutes a "safety net" and a "child at-risk," closely track at-risk children in states' longitudinal databases, and define knowledge requirements for graduation.
2. Expand independent school options, including by providing greater access to charter schools and taxpayer-funded scholarships for students to use at private schools.
3. Expand parental choice, which includes choice within the safety net, by creating vouchers, education saving accounts, and tax-credit scholarships.
4. Reduce the need for a safety net by motivating students with alternative approaches and experimental programs.

"If we are willing to act boldly to implement the recommendations described above, we can transform and revolutionize how we work with children who are floundering in school," Brodt and Bonsteel wrote in their conclusion. "Over the next two decades we could empty many of our prisons of young people who have been poorly served by our dysfunctional educational safety net."

## What We're Working On

### Energy & Environment

#### Will Happer Interview: Focused Civil Dialogue on Global Warming

This is a reprint of an absolutely remarkable interview, conducted by TheBestSchools.org, with physicist William Happer, Ph.D., one of the most prestigious climate scientists in the world. Dr. Happer is the Cyrus Fogg Brackett Professor of Physics (emeritus) at Princeton University, former director of the Office of Energy Research, former director of research at the U.S. Department of Energy, and co-founder of Magnetic Imaging Technologies. He is also cofounder and chairman of the CO2 Coalition. The interview was conducted in December 2016.

### Education

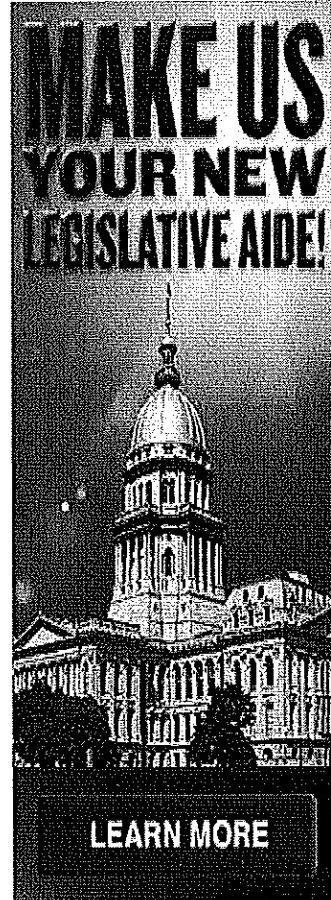
#### Research & Commentary: California Should Empower Parents with ESAs

In this *Research & Commentary*, Policy Analyst Tim Benson discusses a new report from Vicki Alger of the Independent Institute, *Customized Learning in California*, which lays out how the Golden State can help to improve outcomes for its K-12 students by implementing an education savings account (ESA) program. As Alger points out, funding for California's \$66 billion K-12 public education system takes up almost 43 percent of the state budget, costing roughly \$12,000 per pupil. Yet, despite all these resources and the amount of money required to educate each child, fewer than three out of 10 students are being taught to a proficient level in reading and mathematics. Alger concludes, "ESAs are popular, easy to use, fiscally responsible, and constitutional. Best of all, they empower parents to choose how, not just where, their children are educated, which customizes learning to degrees no one-size-fits-all system could ever match—no matter how lavishly funded."

### Budget & Tax

#### Research & Commentary: Ohio Looks to Ensure Eligibility and Limit SNAP Fraud

In this *Research & Commentary*, Senior Policy Analyst Matthew Glans examines a new bill in Ohio that would require state officials to conduct quarterly eligibility checks on food stamp recipients, using several state and federal databases. = 2Placing a greater emphasis on strong eligibility standards and limiting fraud is an important first step toward ensuring



POLICY NEWSPAPER

Ohio's SNAP programs remain viable for those truly in need," Glans wrote.

### **Health Care**

#### Research & Commentary: Missouri Should Expand Direct Primary Access to Medicaid Patients

In this *Research & Commentary*, Charles Katebi examines direct primary care and a proposal in Missouri that would expand direct primary care to patients on Medicaid. "Medicaid needs DPC now more than ever. After years of delivering poor outcomes at increasing costs, Missouri should allow Medicaid enrollees to access quality health care at a price Missouri taxpayers can afford," wrote Katebi.

### **From Our Free-Market Friends**

#### Discount Christmas Sales Remain Illegal in Idaho

Wayne Hoffman, CEO of the Idaho Freedom Foundation, recently argued a Depression-era law in Idaho that prohibits retailers from offering discounts on items should be repealed. According to Hoffman, the Gem State's 1939 law requires retail prices to be marked up at least six percent to cover the cost of doing business. Sellers who offer steep discounts on products do so with the risk of being fined \$500 for each offense and imprisoned for up to six months. Hoffman contends these type of laws are anti-competitive and detrimental to consumers and sellers.

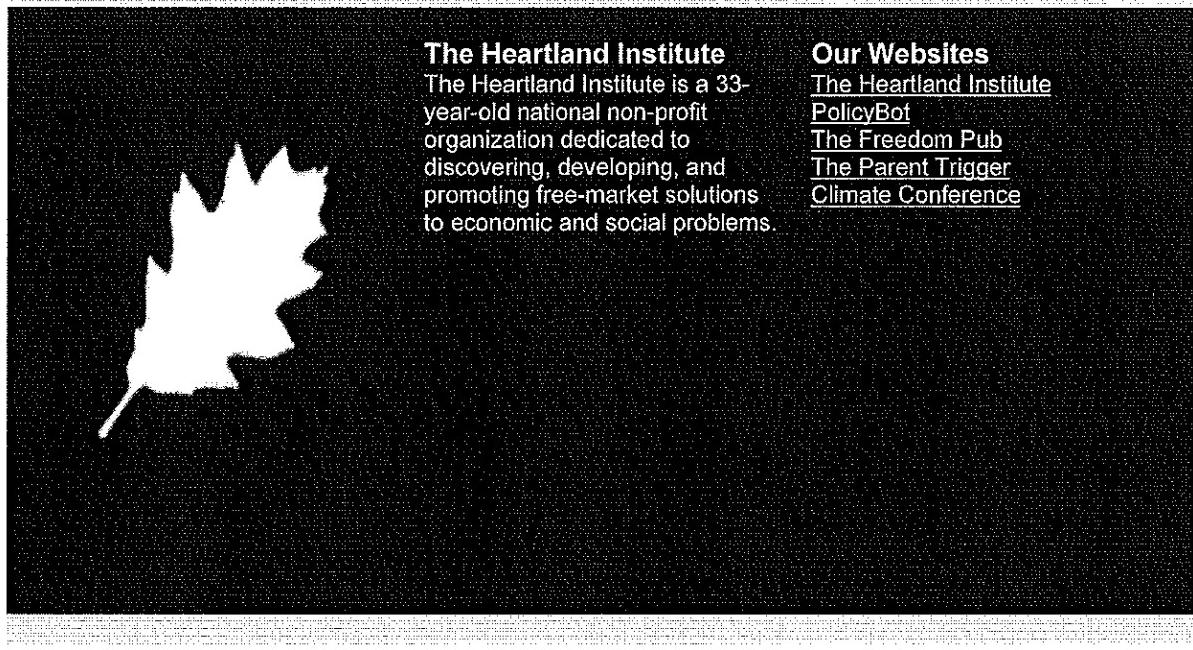


In the December issue of *Budget & Tax News*, Brandi Wielgopolski reports on a group of taxpayers who have began collecting signatures for a ballot campaign to repeal California's gas excise tax hike. The tax hike, Senate Bill 1, was signed into law back in April. Former San Diego City Council member Carl DeMaio is spearheading this campaign, which will have to collect 587,407 valid signature to be on the November 2018 ballot.

#### Environment & Climate News

#### School Reform News

#### Health Care News



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### **Missed Heartland's Emerging Issue Forum in Nashville? Watch It Online!**

In On December 9, The Heartland Institute hosted its final 2015 Emerging Issue Forum (EIF). More than 80 state elected officials and policy experts attended the EIF-South event in Nashville, Tennessee.

West Virginia Del. Michel Moffatt (R-Putnam) praised Heartland's EIF-South event, stating, "The day was well worth the trip. The panels were direct and had a great grasp of the issues and solutions. I look forward to attending in the future."

[YouTube channel](#).

The energy and environment panel featured North Carolina state Rep. Mike Hager (R-Rutherford), Georgia Public Policy Foundation Vice President Benita Dodd, Heartland Institute Research Fellow Bette Grande, and Tom Tanton, the director of science and technology at the Energy and Environment Legal Institute. The panelists discussed what states can do to push back against the overreach of the Environmental Protection Agency (EPA), covering diverse and important topics, such as renewable power mandates, EPA's Clean Power Plan, and hydraulic fracturing. [Video](#)

The education panel featured Mississippi state Sen. Angela Burks Hill (R-Picayune), Civitas Institute attorney Elliot Engstrom, and Heartland Senior Fellow Bruno Behrend. The panelists spoke about recently passed education savings account programs in Mississippi and Nevada, the state of education across the United States, and how to fight back against Common Core State Standards. [Video](#)

[Video](#)

The health care panel featured Dr. Hal Scherz of Docs4PatientCare, Heartland State Government Relations Manager Logan Pike, and Vice President of Policy for the James Madison Institute Sal Nuzzo. The panelists spoke about the rise and future of direct primary care, Medicaid reform, Obamacare after the *King v. Burwell* U.S. Supreme Court decision, and certificate of need laws. [Video](#)

The keynote address was delivered by Zeke Turner, founder and CEO of Mainstreet. His presentation, titled “Beyond Health Care Reform: How Mainstreet Is Transforming Lives and Disrupting Bureaucracy,” showed how certificate of need laws and other regulations are hindering the growth of his company. [Video](#)

Stay tuned as Heartland plans on hosting two EIFs, one in Chicago and another in Orlando, in 2016.



## Education

### [AltSchool Private School Network Expands to Chicago](#)

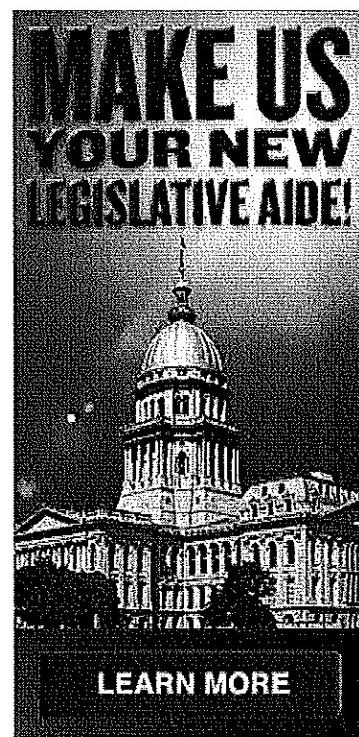
A network of small private schools called AltSchool, founded by a former Google executive Max Ventilla, is expanding to Chicago in fall 2017. Illinois will become the third state with an AltSchool. Tom Gantert, senior capitol correspondent for *Michigan Capitol Confidential*, details in this *Heartlander* article the history of AltSchool and how a “micro-school” philosophy, which keeps schools to about 80-150 students, provides a more flexible and personalized educational experience than a traditional school environment, according to AltSchool. Investors in AltSchool include Facebook founder Mark Zuckerberg, who has reportedly contributed \$100 million to the project. AltSchool currently has campuses in California cities San Francisco and Palo Alto and in New York City. [Read more](#)

## Energy & Environment

### [Research & Commentary: Idaho Lawmakers’ 9 Doubts about the Climate ‘Consensus’](#)

On January 2, the *Twin Falls Times-News* released a highly deceptive story, “[At Idaho Legislature, Many Doubt Scientific Consensus on Global Warming Cause](#),” containing many dubious assertions about the debate between scientists over the effects of climate change, how much of global warming is caused by humans, and what the actual scientific “consensus” is. In this *Research & Commentary*, Policy Analyst Tim Benson explains several of the author’s claims, including, “Climate scientists overwhelmingly agree: The earth is warming at a dangerous rate, and we are responsible for it,” are inaccurate. Although the article mentions a “wide range of surveys and literature reviews,” Benson notes the author does not cite any to back up his arguments. Benson says this is because there are no surveys or literature reviews showing a “scientific consensus” in support of the catastrophic, man-caused global warming hypothesis. [Read more](#)

## Health Care



### Research & Commentary: Should Wisconsin Limit Transitional Care Facilities?

Since 1981, Wisconsin law has capped the number of nursing home beds in the state. This cap, along with a fee charged for each licensed bed in the state, has reduced the number of licensed beds in skilled nursing facilities in Wisconsin by 16 percent between 2003 and 2013. Like many certificate of need laws, limits on the construction of new health care facilities fail to achieve many of their stated goals and often reduce the availability of health care services. In this *Research & Commentary*, Senior Policy Analyst Matthew Glans argues statutory limits on construction increase costs for consumers by hindering competition and forcing patients into older facilities. Glans says markets should be allowed to determine whether there is a demand for new health care facilities, not bureaucracies. [Read more](#)

### Tobacco

#### Research & Commentary: Indiana Tobacco Taxes and Infrastructure Funding

Lawmakers in Indiana are considering increasing the state's tobacco tax to help fill its dwindling infrastructure fund. In this *Research & Commentary*, Senior Policy Analyst Matthew Glans and State Government Relations Manager MaryAnn McCabe argue all of the revenues from the current 7 percent sales tax on gasoline should be allocated to the state's roads fund as an alternative to increasing the state's gas tax and the cigarette tax. [Read more](#)

### Constitutional Reform

Heartland Daily Podcast ? 3 Kyle Maichle: Compact for America  
In this edition of the *Heartland Daily Podcast*, Kyle Maichle, project manager for constitutional reform at The Heartland Institute, joins host Donald Kendal to talk about the Compact for America (CFA). Compact for America is one of five major groups seeking an Article V convention. Maichle talks about the background of the organization and its successes in the Article V movement, and he explains how CFA offers a unique strategy for accomplishing the task of carrying out an Article V convention. Maichle also discusses the recent endorsement of an Article V convention by presidential candidate Sen. Marco Rubio (R-FL), a development that's causing quite a stir in the mainstream media. [Read more](#)

### From Our Free-Market Friends

#### Mercatus Center Study: State Certificate of Need (CON) Health Care Laws Limit Patient Access

In 2016, Virginia legislators will be discussing reforms to the state's "certificate of public need? D (COPN) laws. Research

The January issue of *School Reform News* reports President Barack Obama signed in mid-December a long-expected rewrite of No Child Left Behind. While some education experts considered the measure a good step in the right direction, grassroots activists were less enthusiastic. Glyn Wright, executive director of Eagle Forum, said, "While the American people thought this would be a public debate, the final bill was put together behind closed doors by committee leaders and their staff. It doesn't look like any of the reforms pushed by the grassroots [organizations] survived the process."

### Budget & Tax News

### Environment & Climate News

### Health Care News

from the Mercatus Center at George Mason University shows that rather than protecting patients' access to care, COPN laws reduce access to important health care services. Economists Thomas Stratmann and Matthew Baker examine state data on MRI, CT, and PET scans, three critical services restricted by COPN regulations in 21 states, and they find COPN laws lead to fewer health care options for patients. Baker and Stratmann say patients in states that restrict imaging services have 20-230 percent fewer provider options than patients in other states. It also finds that there are 30-65 percent fewer scans in COPN states. [Read more](#)

## Heartland Institute

The Heartland Institute is a 30-year-old national non-profit organization dedicated to discovering, developing, and promoting free-market solutions to economic and social problems.

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**From:** newsletter@howmoneywalks.com  
**Sent:** Friday, January 29, 2016 2:09 PM  
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**Subject:** How Money Walks Weekly Newsletter

**HOW MONEY WALKS**  
By TRAVIS H. BROWN

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An INQUIRY into  
THE NATURE AND CAUSES  
of the  
WEALTH OF STATES

HOW TAXES, ENERGY,  
AND WORKERS ARE CHANGING EVERYTHING

WILEY

# WHAT'S HOT STATES WHAT'S NOT

The House committee proposed to cut the state's income tax rate by 5 percent over the next eight years.

## THE HOW MONEY WALKS EXPRESS:

In case you missed it: Travis H. Brown recently wrote in *Forbes* about how GE's decision to relocate its headquarters from southwestern Connecticut to Boston is just one of the latest blows to the Nutmeg State's crippled economy.

Using years of economic data and empirical evidence from each state, the authors identify which policies can lead a state to economic prosperity. *Rich States, Poor States* not only identifies these policies but also makes sound research-based conclusions about which states are poised to achieve greater economic prosperity and those that are stuck on the path to a lackluster economy.

The 2015 economic outlook ranking is a forward-looking measure of how each state can expect to perform economically based on 15 policy areas that have proven, over time, to be the best determinants of economic success authored by *Wealth of States* co-authors and economists Dr. Arthur Laffer and Stephen Moore, and Jonathan Williams, Director of the Tax and Fiscal Policy Task Force at the American Legislative Exchange Council.

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If you aren't already, you can follow *How Money Walks*, *Wealth of States*, and *Travis H. Brown* on Facebook and Twitter to see where he and his co-authors will be appearing next week.

### FACT OF THE WEEK:

The federal tax code is over 70,000 pages.

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**From:** anuzisforchair.activehosted.com@s320.acemserv.com on behalf of Saul Anuzis [sanuzis@gmail.com]  
**Sent:** Sunday, February 28, 2016 5:36 AM  
**To:** Rep48  
**Subject:** Weekly Musing 2-28-16

## **Weekly Musing 2-28-16**

**Saul Anuzis**

*Days until the 2016 election: 253...*



## **Ted Cruz, A Personal Look At A Humble Man**

Having had the opportunity to meet most of the Republican candidates and look them in the eyes, I can tell you that Ted Cruz is the best candidate to uphold the Constitution and put the interests of the American people first.

I first met Ted in 2010 at an American Legislative Exchange Council (ALEC) conference, which is a conference for state legislators that was being held in Washington, DC. He was there to speak on a panel about the Health Care Compact, a project of interstate compacts that would effectively transfer the regulatory

authority for health care from the federal government back to the states. My boss at the time was also speaking on the panel, which led to our meeting.

After the panel discussion, a group of us decided to eat breakfast in the hotel lobby. Ted and I ended up sitting down at the table first. We shared a five-minute conversation before the rest of our group joined us and in that time we spoke casually, introducing ourselves and talking about why we were there. This was my first impression of him and he was extremely humble and somewhat soft spoken. It is something that has stuck over the years.

...But Hayek warned about what we are seeing right now in his book, *The Road to Serfdom*. Its premise was that, over time, free governments became so dysfunctional that the masses were open to the words of a "strongman" who would return order. The catch in this Faustian bargain was that freedom would be lost in the process. One hundred years earlier, Edward Gibbon wrote of the same as he recounted how the Athenians gave up freedom in exchange for security — and lost both.

Maybe I am wrong on all this, and Trump is simply a disruptive force in politics that will generate change much like new technology does ↗ 0 but maybe not. History would suggest we are playing with fire and need to step away from the entertainment found in the Republican primaries and think about what's really at play. It's worth a thought.

<http://dailycaller.com/2016/02/25/ted-cruz-a-personal-look-at-a-humble-man/#ixzz41KSeWCuk>

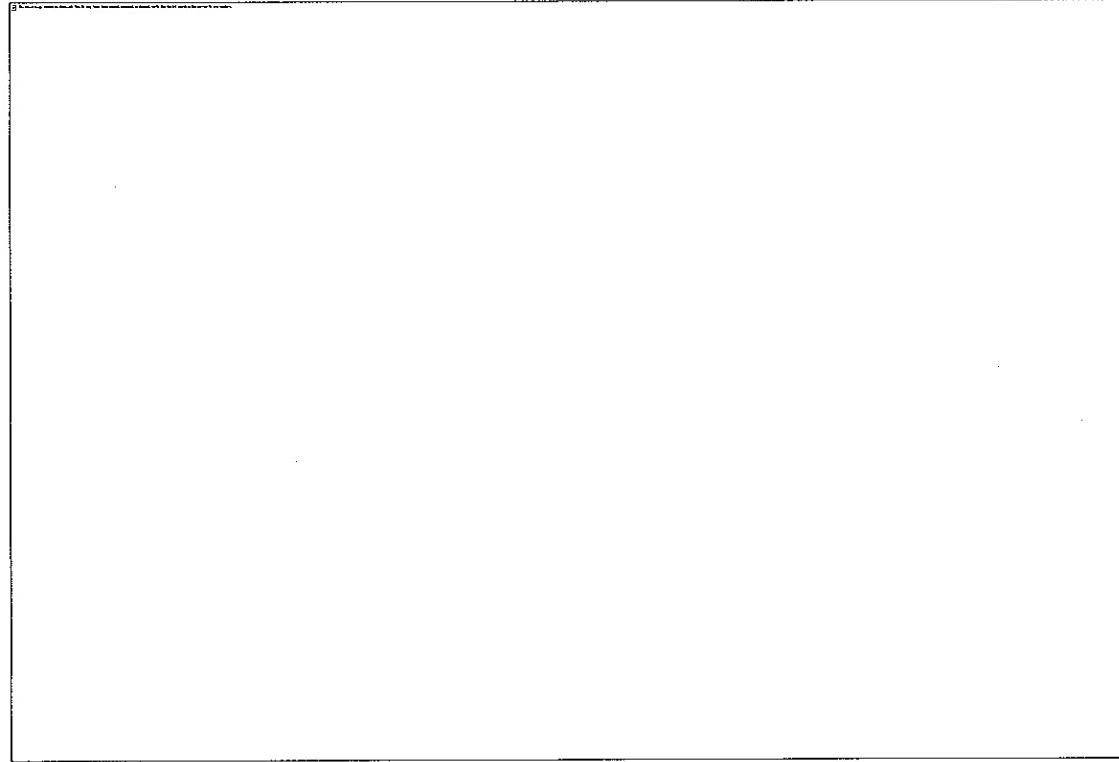
## **Inside the Republican Party's Desperate Mission to Stop Donald Trump**

In public, there were calls for the party to unite behind a single candidate. In dozens of interviews, elected officials, political strategists and donors described a frantic, last-ditch campaign to block Mr. Trump = 2 and the agonizing reasons that many of them have become convinced it will fail. Behind the scenes, a desperate mission to save the party sputtered and stalled at every turn.

Efforts to unite warring candidates behind one failed spectacularly: An overture from Senator Marco Rubio to Mr. Christie angered and insulted the governor. An unsubtle appeal from Mitt Romney to John Kasich, about the party's need to consolidate behind one rival to Mr. Trump, fell on deaf ears.

At least two campaigns have drafted plans to overtake Mr. Trump in a brokered convention, and the Senate majority leader, Mitch McConnell of Kentucky, has laid out a plan that would have lawmakers break with Mr. Trump explicitly in a general election.

<http://www.nytimes.com/2016/02/28/us/politics/donald-trump-republican-party.html?ref=politics&r=1&smid=tw-nyt政治&smtyp=cur>



### **Wow...finally the truth...but at what cost???**

Ted Cruz isn't running a dirty campaign, but that perception just cost a staffer his job.

Ted Cruz is not running a dirty campaign, despite what Donald Trump and Marco Rubio would argue. But that idea just cost Cruz's spokesman, Rick Tyler, his job.

His campaign's clumsy effort to translate Ben Carson's post-Iowa travel into a Carson concession was unfair, but it likely didn't make

much difference and can probably be chalked up to zealousness as much as anything. That "you haven't voted" flyer in Iowa was poorly received, but it was based in sound political research -- and was only sent to a few thousand people who probably wouldn't have voted anyway. Cruz's ads against Trump, quoting Trump's past positions as stated by Trump himself, are fair game, despite Trump's threats to sue. There were late robocalls in South Carolina hammering Donald Trump for being liberal, but those were from a PAC, not the campaign itself. Reports of "push polls" and other gauzy nonsense appear to be unfounded.

But that we have to list all of these things proves the point: Cruz has a perception problem, for two reasons.

First, his opponents are more than willing to make a big deal out of these not-very-big issues because it serves their own political goals to do so. Trump plays them up because he wants people to think that maybe he won Iowa, which he didn't. Carson plays them up because he wants people to think that he's actually a good candidate, which he isn't.

<https://www.washingtonpost.com/news/the-fix/wp/2016/02/22/ted-cruz-isnt-running-a-dirty-campaign-but-that-perception-just-cost-a-staffer-his-job/>



## **Trump Is More Vulnerable Than You Think**

Most in the national news media are talking about how Donald Trump is now the clear Republican frontrunner and will be nearly impossible to stop. They are only partially right.

Trump, who won South Carolina (and all of its delegates) with a little under one-third of the vote, certainly is the front-runner. He has won two of the first three contests and has a clear lead in delegates. He should do well on March 1, when many Southern states hold their primaries and more than 600 delegates are at stake. By definition, that makes him the front-runner.

But the Palmetto State primary results, combined with recent national polls, suggest that Trump remains a tentative front-runner, not some kind of unstoppable favorite.

... Those who believe that Trump is unstoppable frequently note that no Republican who has won both New Hampshire and South Carolina has been denied the GOP's nomination.

That's true, but I believe that we have already established that the old "rules" do not apply, so I am not sure why anyone should regard two primary victories this year as an iron law of Republican politics.

<http://blogs.rollcall.com/rothenblog/trump-remains-tentative-front-runner/?dcz>

### **The Republican Contest and Preferential Voting**

After Ted Cruz's Iowa victory, Donald Trump should be congratulated for winning three straight contests in New Hampshire, South Carolina and Nevada, but the fact is that a large majority of voters voted for somebody else. In fact, it's a good bet that he would have lost head-to-head in at South Carolina and perhaps New Hampshire.

Tump is not running against just one candidate, of course, and he's playing by our current rules of the game. But a recent analysis of 16 surveys over the past three months with head-to-head comparisons show how different the race would be going if Trump had faced only Ted Cruz or Marco Rubio -- or if we had used preferential voting in our primaries.

Trump wins the head-to-head contest against both Rubio and Cruz in just four of the 16 polls, yet has a lead of at least 10% in the "against all candidates" question in 11 of these polls. He trails head-to-head in five of the six national polls, and both Rubio and close the gap between the plurality vote and the head-to-head in every poll. You can see this graphically in a College of William and Mary / FairVote national YouGov survey of 1,000 Republican and independents likely voters- see the full report and a useful interactive feature where you can run a preferential voting tally round-by-round and see the impact of eliminating any candidates you want to.

Trump's success may depend less on the voters than on whether the opposition rallies around just one candidate. But with preferential voting, candidates wouldn't have to drop out to get a fair outcome. Voters instead would have their vote count for second choice if their first choice doesn't have enough votes to win delegates, and we could have matched the frontrunner against their strongest opponent head-to-head in every state. The College of William and Mary poll shows a solid majority of Republican primary voters like the idea - -and so do I.

In America today, police can seize your property without charging you with a crime

Law enforcement has the right to seize your property without being charged with a crime. You then have to put in the time and expense, often including an attorney, to get your property back—and you have a less than 50-50 chance of succeeding.

How can this even happen in America?

When individuals commit a crime, or are accused of doing so, government can seize any property—e.g., cars, money, homes, goods, etc.= 2that was stolen or used in the commission of the crime. That's criminal asset forfeiture.

Civil asset forfeiture differs from criminal forfeiture because the property, not an individual, is the target of an investigation. Law enforcement officials, including local police, may seize your stuff based on nothing more than a suspicion, such as a person possessing large amounts of cash.

Getting the property back can be long, costly, and maybe impossible, even if no criminal charges are ever filed. Depending on the amount seized and the person's situation, the time and cost involved may not justify the effort.

[http://rare.us/story/in-america-today-police-can-seize-your-property-without-charging-you-with-a-crime/?utm\\_source=HermanCain&utm\\_medium=referral&utm\\_campaign=Partnership](http://rare.us/story/in-america-today-police-can-seize-your-property-without-charging-you-with-a-crime/?utm_source=HermanCain&utm_medium=referral&utm_campaign=Partnership)

## **12 Sites In Michigan Will Remind You How Stunning America Truly Is**

The great United States of America are filled with places and people to be proud of. And Michigan has played a huge part in our nation's rich history.

We've dug up the stories of some of the places that put Michigan in the history books. Take a look.

<http://www.onlyinyourstate.com/michigan/sites-mi/>

=

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### **NEW Mobile App for Parties & Candidates**

We launched it...finally a new mobile app to help parties and candidates keep in touch with their members.

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New York GOP (New York State Republican Party)

TN GOP (Tennessee Republican Party)

Michigan Republican Party

WSRP (Washington State Republican Party)

Republican Party of Louisiana

Republican Liberty Caucus

Tea Party Nation

NYS Conservative Party

USVI GOP (Virgin Islands Republican Party)

Lisa Posthumus Lyons (State Representative-MI)

Triston Cole (State Representative-MI)

Gowan for Arizona (Gowan for Congress)

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If any party or candidate is interested in getting an app of their own, please contact me at: [sanuzis@rightmobile.us](mailto:sanuzis@rightmobile.us)

[www.rightmobile.us](http://www.rightmobile.us)

**This student was ashamed of her Republican father, until he said this**

A daughter's lesson...

A young woman was about to finish her first year of college. Like so many others her age, she considered herself to be a very liberal Democrat, and was very much in favor of the redistribution of wealth.

She was deeply ashamed that her father was a rather staunch Republican, a feeling she openly expressed. Based on the lectures that she had participated in, and the occasional chat with a professor, she felt that her father had for years harbored an evil, selfish desire to keep what he thought should be his.

One day she was challenging her father on his opposition to higher taxes on the rich and the addition of more government welfare programs. The self-professed objectivity proclaimed by her professors had to be the truth and she indicated so to her father. He responded by asking how she was doing in school.

Taken aback, she answered rather haughtily that she had a 4.0 GPA, and let him know that it was tough to maintain, insisting that she was taking a very difficult course load and was constantly studying, which left her no time to go out and party like other people she knew. She didn't even have time for a boyfriend, and didn't really have many college friends because she spent all her time studying.

Her father listened and then asked, "How is your friend Audrey doing?" She replied, "Audrey is barely getting by. All she takes are easy classes, she never studies, and she barely has a 2.0 GPA. She is so popular on campus; college for her is a blast. She's always invited to all the parties, and lots of times she doesn't even show up for classes because she's too hung over."

Her wise father asked his daughter, "Why don't you go to the Dean's office and ask him to deduct a 1.0 off your GPA and give it to your friend who only has a 2.0. That way you will both have a 3.0 GPA and certainly that would be a fair and equal distribution of GPA."

The daughter, visibly shocked by her father's suggestion, angrily fired back, "That wouldn't be fair! I have worked really hard for my grades! I've invested a lot of time, and a lot of hard work! Audrey has done next to nothing toward her degree. She played while I worked my tail off!"

The father slowly smiled, winked and said gently, "Welcome to the Republican party."

**It's as simple as that.**



**His wife of 21 years made him take another woman to dinner.  
This is priceless.**

After 21 years of marriage, my wife wanted me to take another woman out to dinner and a movie. She said, "I love you, but I know this other woman loves you and would love to spend some time with you."

The other woman that my wife wanted me to visit was my mother, who had been a widow for 19 years, but the demands of my work and my 3 children had made it possible to visit her only occasionally.

That night I called to invite her to go out for dinner and a movie.

<http://thedailyheadline.com/his-wife-of-21-years-made-him-take-another-woman-to-dinner-this-is-priceless/>

### **Stay In Touch...Feel Free to Share**

My goal is for this to be a weekly political update...sharing political news and analysis that should be of interest to most activists.

Please share.

Feel free to follow me on Twitter and/or Facebook.

On Facebook at:

<http://www.facebook.com/sanuzis>

On Twitter at:

@sanuzis

My blog "That's Saul Folks" with Weekly Musings & more:

<http://thatssaulfolks.com/>

Thanks again for all you do!

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Saul Anuzis, 5 Locust Lane, Lansing, MI 48911, USA

**From:** Leonard Gilroy  
**Sent:** Thursday, March 31, 2016 3:42 PM  
**To:** Rep48  
**Subject:** Privatization & Government Reform Newsletter #24 - March 2016

To view this email as a web page, go [here](#).

**Privatization & Government Reform Newsletter**  
Issue No. 24 — March 2016

By Leonard Gilroy  
Director of Government Reform, Reason Foundation

**In this issue:**

- PENSIONS: [Does Reform Improve Pension Sustainability?](#)
- TRANSPORTATION: [Implications of Texas Toll Road Bankruptcy Filing](#)
- LAND USE: [Social & Economic Impacts of Urban Containment](#)
- CRIMINAL JUSTICE: [Reforming Connecticut's Pre-Trial System](#)
- PRIVATIZATION: [User Fees for River Recreation?](#)
- [News & Notes](#)
- [Quotable Quotes](#)

**PENSIONS: Did Pension Reform Improve the Sustainability of Pension Plans?**

There is a long-running national debate over whether closing public sector defined benefit plans and replacing them with defined contribution plans—as states like Michigan and Alaska did over a decade ago—improves the sustainability of retirement systems or creates further problems. In a new Reason Foundation policy study, Anthony Randazzo and Truong Bui apply a new actuarial model to the cases of Michigan and Alaska to provide counterfactual analyses of what would have happened in those states had reforms never been adopted. They find that both states are better off having closed defined benefit

plans. Unfunded liabilities have increased in both states since their reforms, but for reasons unrelated to the actual reforms: both states had underperforming investment returns and failed to make 100% of their required employer contributions. Had Michigan and Alaska not closed their pension plans, unfunded liabilities would be even higher today than under actual experience.

» [FULL REPORT](#)

» [ARTICLE: Confronting Myths About Closing Defined Benefit Plans](#)

» [INFOGRAPHIC: How Public Sector Defined Benefit Pension Plans Are Funded](#)

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## **TRANSPORTATION: Implications of Texas Toll Road Bankruptcy Filing**

Opponents of public-private partnership (PPP) toll roads have seized on the Texas SH 130 Concession Company's recent Chapter 11 bankruptcy filing as evidence that PPPs are a bad idea. While that may turn out to be the case for the bondholders and the equity providers, the restructuring should have no adverse impact on toll road customers or on taxpayers, according to Reason Foundation's Robert Poole. In fact, Poole notes that there have been several such bankruptcy filings for U.S. toll roads during the past decade, and in none of these cases have toll road users been adversely affected, nor have there been any taxpayer bailouts.

» [FULL ARTICLE](#)

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## **LAND USE: The Social and Economic Consequences of Urban Containment**

Some cities are limiting their urban footprint to curtail greenhouse gas emissions through so-called "urban containment" policies that seek to densify urban areas and substitute transit, cycling and walking for car and other light duty vehicle use. After evaluating key research on these policies, a new Reason Foundation report finds that implementation of urban containment will likely lead to more-congested cities and less mobility, as well as lower discretionary incomes as house prices rise relative to incomes. The result would be a lower standard of living and greater poverty.

» [FULL REPORT](#)

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## **CRIMINAL JUSTICE: Reforming Connecticut's Pre-Trial System**

In Connecticut, individuals charged with crimes face very different outcomes before trial—outcomes tied more to how much money they have than the risk they pose to society. For example, those who can afford to post bail remain free until their trial date, with little accountability. But poor defendants—even those charged with low-level, nonviolent crimes—often sit in jail until their trial dates, costing taxpayers thousands of dollars without preserving public safety, or else they just plead guilty, regardless of their actual complicity. This has led to a pre-trial system that fails to prioritize public safety and that is neither just nor cost-effective. A new report by Reason Foundation and the Yankee Institute for Public Policy makes the case for systemic reform by replacing monetary bail with a system that uses effective alternatives based upon risk assessment.

[» FULL REPORT](#)

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## **PRIVATIZATION: User Fees for River Recreation?**

Recent federal legislation authorizing the use of public-private partnerships to modernize locks and dams have some advocacy groups concerned about recreational river users, not just commercial users, eventually being required to pay user fees related to their activities. While this is not part of the federal program, William Newman and C. Jarrett Dieterle write that there are many good reasons why all users—even recreational ones—should be expected to contribute user fees for the maintenance of our nation's water infrastructure.

[» FULL ARTICLE](#)

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## **NEWS & NOTES**

[New Report Advocates Reforming Public Pension Governance:](#) A new Manhattan Institute report by James Copland and Steven Malanga finds that little attention has been paid to the governance of public pension boards and that there is a significant need for reform. Among the findings, the authors conclude that public pension boards lack diversity and financial expertise, and public pension systems

are typically "not subject to federal fiduciary duties that apply to private pension plans and are instead subject to a hodgepodge of typically more lenient state-law requirements." The full report is [available here](#)

**Moody's Expects Unfunded Pension Liabilities to Skyrocket in FY 2016:** It's been a rough year in the financial markets, and a new report from Moody's Investors Service forecasts that unfunded public pension liabilities will increase by a minimum of 10% in fiscal year 2016 under the most optimistic set of assumptions. The press release is [available here](#).

**Positive Outlook for U.S. Infrastructure PPP Market:** While the outlook for public pensions may be bleak, according to Moody's, there is a healthy outlook for the infrastructure PPP market in the U.S. A new Moody's analysis finds that, "[n]ew state and federal [PPP] resources and political and legislative support, combined with a strong underlying legal framework for contractual enforceability and a deep capital market ready to finance projects, are positive developments as the sector continues growing." More information is [available here](#).

**New USDOT Report on PPP Best Practices:** The U.S. Department of Transportation's Build America Transportation Investment Center has released a new report describing how government agencies can apply best practices in working with the private sector to deliver transportation facilities through PPPs in ways that protect the public interest. It draws on research and interviews and discussions with public and private market players, and it focuses on the key areas of legislation and policy, project development, procurement, and performance monitoring and oversight. The full report is [available for download here](#).

**Indiana Supreme Court Rules on State, IBM Welfare Modernization Dispute :** Last week, the Indiana Supreme Court issued a long-awaited ruling in a dispute between the state of Indiana and IBM over the early cancellation of a 2006 contract to modernize the state's welfare eligibility system. That year, the state entered a 10-year, \$1.34 billion contract with IBM to automate eligibility determinations for food stamps, Medicaid and other welfare benefits and significantly reduce face-to-face interactions. However, a variety of implementation glitches ultimately prompted former Gov. Mitch Daniels to cancel IBM's contract in 2009, at which point the parties countersued. The high court ruling upheld a Court of Appeals determination that the state could recover up to \$175 million in damages it is seeking from IBM, while at the same time allowing IBM to seek reimbursement for approximately \$50 million for services delivered under the contract. The ruling is [available here](#).

**Chicago Skyway Sale Reaches Financial Close:** The \$2.8 billion acquisition of the Chicago Skyway by a trio of Canadian public pension funds reached financial close late last month, with the city of Chicago benefitting from a \$28 million windfall resulting from application of the city's real property transfer tax to the transaction, according to the *Chicago Sun-Times*. A Macquarie and Cintra-led consortium entered a 99-year lease of the Chicago Skyway in 2005—taking over operations and management of the government-run toll road from the city in exchange for a \$1.8 billion upfront payment—but the parties announced an intention last June to sell their remaining interest in the lease. In November, the Canada Pension Plan Investment Board, Ontario Municipal Employees Retirement System and Ontario Teachers' Pension Plan agreed to purchase of the Skyway Concession Co., and the parties will adhere to the terms of the original lease for the remaining 88 years of its duration.

**New Academic Research Suggests Potential Cost Savings Through Privatized Bus Transit:** A new National Bureau of Economic Research working paper by Rhiannon Jerch (Cornell), Matthew Kahn (USC), and Shanjun Li (Cornell) examined public sector productivity in the delivery of public transit services and found that full privatization of all U.S. public bus transit services could reduce per-mile operating costs by 30% and result in aggregate cost savings of \$5.7 billion (using 2011 data). The full report is [available for purchase here](#).

**Tennessee Releases Privatized Facilities Management Business Case Analysis :** In early March, the Tennessee Department of Finance and Administration released a business justification report analyzing the potential cost savings from privatizing facility management services for those state facilities still managed in-house, including higher education. The report estimates a first-year cost savings of \$29.7 million under privatization, ramping up to an annualized costs savings of \$35.8 million in the following years. The state plans to hire a third party consultant to validate the cost analysis before deciding whether to pursue additional privatization. A total of 10% of the state's real estate portfolio has been privately managed since 2013, which officials estimate has saved taxpayers \$13 million over the first two years of the contract. The full report is [available here](#).

**Arizona Finalizes First Highway P3 Project :** In late February, the Arizona Department of Transportation (ADOT) announced it had finalized a contract with Connect 202 Partners to design and build the Loop 202 South Mountain Freeway, the largest-ever highway project in the state, and maintain it for 30 years after construction. The \$916 million fixed contract for design and construction is \$122 million less than expected as a result of innovative approaches the private partner proposed for construction and engineering, along with reductions in needed property acquisitions. "This first-of-its-kind highway contract in Arizona has not

only reduced the overall cost but allowed ADOT to accelerate the entire project, meaning motorists will be able to benefit from this critical freeway sooner," according to ADOT Director John Halikowski. More information on the project is [available here](#).

**Idaho Legislature Passes Procurement Overhaul Bill:** Last week, the Idaho State Legislature unanimously approved legislation ([House Bill 538](#)) developed by an interim legislative committee convened last fall that recodifies and updates the state's procurement laws and adds in new training requirements for all state employees involved in procurement activities. The legislation also requires the administrator of the state's division of purchasing to develop policies and procedures for agency contract monitoring, as well as establishes a set of ethical standards applicable to anyone involved in state procurement. The legislation stems from several high-profile contracting problems in recent years, highlighted in a 2014 state audit report. At press time, the bill was awaiting signature by Gov. Butch Otter.

**Kansas Senate Passes Legislation Permitting Privatization of Mental Health, Disability Services and Facilities:** Earlier this month, the Kansas State Senate approved legislation ([Senate Bill 422](#)) outlining comprehensive standards and licensure requirements for the care offered by facilities and providers of mental health and disability services. The legislation includes language granting broad authority to the state's Department for Aging and Disability Services to contract out services and facilities, with the condition that the state cannot privatize the operations or facilities of the Larned or Osawatomie State Hospitals without prior legislative approval. The bill is currently awaiting a hearing in the House Committee on Health and Human Services.

**Reforming Mandatory Minimum Sentencing:** A new report published by the American Legislative Exchange Council makes the case for departing from mandatory minimums and allowing judges greater flexibility when sentencing nonviolent, low-risk offenders. The report, authored by Gregory Newburn of Families Against Mandatory Minimums, includes model legislation allowing for discretion during sentencing of certain nonviolent offenders who meet certain criteria as a way to lower incarceration rates and costs without compromising public safety. The full report is [available here](#).

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